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Hiram Walker and Sons and the Pure Food and Drugs Act a regulatory decision gone awry.

James. Files

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Hiram Walker and Sons and The
Pure Food and Drugs Act: A
Regulatory Decision Gone Awry

A Thesis
Submitted to the Department of History of the
University of Windsor in Partial Fulfillment
of the Requirements for the Degree of Master
of Arts

by

James Files

Faculty of Graduate Studies

1986

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Abstract

This analysis of the pure food law is based upon the case example furnished by Hiram Walker and Sons Distillery. • The developments which affected the Walker Company form the thread through which this study is interwoven. With this evidence, I was able to examine the pure food law from a novel perspective and reconsider the nature of progressive reform in the early 20th century.

The first chapter describes the origins of Hiram Walker's company in Canada, the growth of his industry, and the esteemed reputation he acquired in business and the community.

The second chapter examines the success and problems engendered by the sale of Walker's popular whisky "Canadian Club" in the American market. The difficulty was that the commercial success of Canadian Club induced fraudulent operators to imitate the label for their own financial gain. In order to protect their product from fraud, the company combated the imitators with their own resources and, in a sense, acted as a surrogate to pure food regulation. In a pre-regulatory era, private interests were compelled to protect their products by their own means. This chapter demonstrates the need for government regulation in a rapidly changing society.

The third chapter discusses the importance of the progressive ferment of the era and the role of Harvey Wiley, Chief Chemist of the Department of Agriculture, in the passage of the Food and Drugs Act of 1906. Given the Walker Company's encounters with fraud in the past, they assumed the regulation enacted in the food law would end their problems.

In the fourth chapter, Harvey Wiley's interpretation of the food law is contrasted with the views expressed by the Walker Company. Much to the company's surprise the whisky specifications of the food law were ruinous to their U.S. trade.

The last chapter begins with the Taft Decision of 1909 which ended the former administration's interpretation of whisky and restored the definition accepted by the public and industry before the pure food law was passed. Then, the implications of this research are analyzed in relation to Robert H. Wiebe's concept of progressive reform. Contrary to Wiebe's view of progressive reform as the triumph of rational, continuous bureaucracy, the whisky controversy shows that the administration of the early progressive era worked under a general flexible outline. The chapter concludes by postulating the heuristic importance of this work to a future, inclusive interpretation of the era.

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List of Abbreviations

HTP The William Howard Taft Papers

HWA The Hiram Walker Archives (Windsor, Ontario)

HGC The Hiram Walker-Gooderham & Worts Limited Collection

WS Wayne State University (Detroit, Michigan)

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To Mother and Father

Chapter I

Hiram Walker, Founder

The success of the Walker Distillery in Walkerville is directly linked to the careful industry and sound business practices of its founder, Hiram Walker. Although Walker died prior to the institution of the regulatory decision upon which this paper is based, a brief discussion of his accomplishments in Canada will furnish relevant information concerning the development of the Walker Distillery. In the first chapter, I shall examine biographical aspects of Walker's life and emphasize his role as creator of the Walker Distillery and progenitor of Walkerville, Ontario. A study of such pertinent information will demonstrate the significance of Walker's achievements in Canada, and enable one to gain an understanding of factors which led to the Company's decision to protest the enforcement of the Food and Drugs Act of 1906.

Hiram Walker was born at East Douglas, Massachusetts in 1816. Walker remained in Douglas until he was twenty years of age, then moved to Boston where he obtained employment at a dry goods store. The education that Walker received in Douglas and the apprenticeship at the Boston store comprise the extent of the educational training and work experience he acquired before travelling to Detroit in 1838. In Detroit, Walker accepted

employment from various merchants on Atwater Street and Woodward Avenue.¹ Walker's first attempt to establish a grocery store on Atwater Street failed in 1850.² He then began a tannery business with a partner named Jeremiah Ingersoll which ended when a fire destroyed their shop. Despite these setbacks, Walker returned to the grocery store business and established a successful venture at 39 Woodward Avenue. In this store Walker sold such products as flour, sugar, salt and cider vinegar. Apparently, Walker realized that a larger profit could be gained from vinegar sales if he produced his own cider vinegar at the Woodward Avenue store, thereby eliminating the costs entailed in purchasing from a wholesaler.³ The vinegar that Walker fermented at the Woodward Avenue store attained a good reputation as a quality product and provided Walker with a welcome profit.⁴ "As a result of his successful vinegar business, Walker decided to experiment with the distilling of spirits, the first barrel of which was distilled in 1854 at 35 Atwater in Detroit."⁵ The whisky that was manufactured by Walker enjoyed the same commercial success experienced by the cider vinegar sales.

By 1855 Hiram Walker was beginning to prosper as a consequence of his liquor and cider sales; however, this prosperity was threatened by agitation from temperance supporters such as The Detroit Association for the Suppression of Intemperance which wished to restrict the sale of liquor.⁶ In 1855 the "Iron Clad" or "Maine Prohibitory Law" was sanctioned

by the Michigan State legislature which enjoined the sale of liquor with the exception of druggists who were required to swear bonds in order to sell liquor for medicinal purposes only.⁷ As a result of the "Prohibitory Law" a number of groceries and saloons were closed. In spite of these closures, the operators of the stores which remained opened and continued to sell spirits observed that with the passage of time the law was rarely enforced and convictions were uncommon.⁸

Although the authorities seemed to be tolerant in their enforcement of the law, the uncertainty created by the temperance agitation and the Prohibitory Law compelled Walker to diversify his business interests into the grain buying and sales trade, which ensured him of a greater amount of financial security by reducing his dependency on spirit sales.⁹ Walker rapidly emerged as one of the leading grain buying agents in Detroit with operations that extended to many areas of the United States and Canada.¹⁰ During this period of business expansion Walker purchased land in Canada.¹¹ His decision to buy Canadian land in 1857 was influenced by such factors as the presence of the Great Western Railway which linked Windsor to major urban centres in Ontario and the American North-East; the Reciprocity Treaty between the United States and Canada which included a provision for the free admittance of Canadian grain into the U.S.; the availability of low-priced land and building materials; and the burgeoning grain-based agricultural industry in southwestern Upper Canada. The absence of a steam driven mill in

the Windsor area also provided Walker with an opportunity to introduce a technology superior to the existing antiquated wind mill system.¹² Moreover, given the uncertainty of the Michigan liquor laws, "a Michigan distillery might not be a prudent investment so Hiram Walker carried his plan over the river to Canada."¹³

The Windsor Distillery and Flour Mill was founded in 1858, and by the year 1864 began to furnish Hiram Walker with a good profit.¹⁴ A subsidiary of this company developed when Walker noted that the distillery slops could be used to fatten livestock, hence, he constructed pens near the distillery which were filled with cattle.¹⁵ During this time a small settlement also began to evolve around the distillery which was officially recognized in 1869 as Walkerville when the hamlet sought a Post Office.¹⁶ Ronald Hoskins argues in his M.A. thesis A Historical Survey of the Town of Walkerville Ontario, 1858-1922 that "Walkerville grew prosperously, not merely as a child of fortune, but rather, through the influence of Walker's pervasive personality, his progressive outlook, and his faith in railroads and industry."¹⁷

Walker's role in the growth of Walkerville may be illustrated by discussing significant aspects of the hamlet's development. In 1871 he financed the construction of a brick church which was located opposite to the Walker house; the church was named St. Mary's and accepted the Anglican denomination.

Walker also provided for the educational needs of the community by supporting the instruction of public school classes in the basement of the church until a school was built on land donated by Walker. He also furnished the village with utilities such as street lamps, and a water system which was a harbinger of subsequent industrial development. Walker also created and sustained the town's fire department, law enforcement agency and various athletic and social activities.¹⁸ When the Walkerville residents did their banking, they placed their accounts with the Walker company bank.¹⁹ The extent of Walker's control over the character of the community is reflected by the strict regulation of the community's housing; for example, those who dwelled in Walkerville were forced to rent housing from Hiram Walker who chose only people whom he deemed fit to live in the village.²⁰ Evidently, he preferred to house married couples that would settle in the town and raise a family instead of single bachelors.²¹ The company built and rented houses for families of various income levels and frequently gave loans that would enable families to purchase such houses.²² Upon consideration of the aforementioned, Walton's description of Walkerville as a "wholly owned family principality until 1890 when it separated itself from the township and took municipal form" was apt and comprehensive.²³

On January 29, 1890, a petition was submitted to the Ontario legislature requesting the incorporation of Walkerville as a town. The petition outlined the various contributions that Hiram

Walker had made to the community and expressed a deep sense of gratitude toward Walker for his work and generosity. However, given Walkerville's population growth, the increasing industrial development of the area, and the need for clearly delineated municipal boundaries, it was generally agreed that the solutions to such problems would be facilitated by the town's incorporation.²⁴ Walker's approval of the transition was evinced by the presence of his signature on the petition sent to Queen's Park. His support of the incorporation was probably based on practical considerations; for example, Walker was relinquished from the responsibility of paying the costs entailed with maintaining the village's police and fire departments. Furthermore, the town's incorporation led to an increase in the value of Walker's real estate holdings, and larger amounts of revenue were accrued from servicing the expanding municipality with water works and lighting.²⁵ Moreover, Hoskins points out that Walker probably feared the possibility of Windsor's annexation of Walkerville which would have drastically altered its character and diminished his influence upon the town.²⁶ On April 7, 1890, Walkerville was incorporated by an act passed in the Ontario legislature. The passage of the Walkerville Incorporation Act indicates that the citizens of Walkerville intended to govern their community within the guidelines of municipal law, and accept the responsibilities inherent to the creation of a local body of government.

The town's appreciation for Walker's contributions is attested to by the support that rallied to his defence when the Detroit Journal published on May 14, 1890, an article that fulminated against Walker's role in the development of Walkerville and portrayed him as a dictatorial Czar. A meeting of protest was held six days later in the old music hall to express the community's disgust with the Detroit Journal's interpretation of Walker's role in the affairs and development of the town. This show of support typified the popularity and respect that was engendered by Walker's reputation in the town of Walkerville.

Following the town's incorporation, the personal manner of Walker's involvement in the community's functions declined until his death in 1899. Hoskins' traces the decline in Walker's influence to railway developments that were initiated by Walker himself in the 1880s and early 1890s. "Until 1888, the Walker distillery and its affiliated enterprises dominated the Walkerville scene."²⁷ With the aid of generous government subsidies, Walker created the Lake Erie, Essex and Detroit River Railway which was incorporated on May 1, 1885.²⁸ These railway developments induced other industries to locate in Walkerville which led to the establishment of an impressive industrial complex along Walker Road, and decreased the town's dependence upon Walker's distillery.²⁹ In summary, Walker's financial support of the rail development in Walkerville functioned vicariously to municipal tax structure which had

provided the fiscal basis to fund railway development in other Canadian centres such as Toronto and Hamilton.

Although by 1890 the personal aspects of Walker's role in the community had begun to decline, his business interests continued to prosper and expand. The varied interests of Walker's financial empire are reflected by the large number of subsidiary companies in Walkerville which he owned entirely or partially. In this vein, Chauvin writes that "at the time of incorporation Walkerville had the following industries within her borders, nearly all of which had been created or organized by Hiram Walker, or which had been brought there through his influence." Such companies included Hiram Walker and Sons Distillery, The Walker Warehouses, The Walker Cooperage, The Walker Planning Mill, The Walker Lumber Yards, The Walker Malthouses, The Walker Copper Shop, The Walkerville Brewing Company, The Ontario Basket Company, The Globe Furniture Company, The Barnum Wire and Iron Works, The Walkerville Malleable Iron Company, Kerr Brothers Limited, Machinists, Parke, Davis and Company, Chemists, The Walkerville Brick Factory, The Lake Erie Essex, and Detroit River Railway Company, The Walker Cattle Barns and a sugar refinery.³⁰ The growth of these companies compelled Walker to rationalize the organization of his business, therefore, he placed these various industries under separate managements. In 1890, the following companies were incorporated: Hiram Walker and Sons, Limited, which had assets that totalled \$5,000,000; the Walkerville Land and Building Company, Limited,

which was capitalized at \$1,000,000; and the Walkerville Gas and Water Company which had assets that amounted to the sum of \$100,000.³¹ The net sum of these corporate assets amounted to \$6,100,000 and the business operations conducted by these companies made a significant contribution to the local economy; consequently many of the inhabitants of Walkerville depended upon the work, wealth and prosperity generated by Walker's industries. Any threat to Walker's business required direct, retaliatory measures to ensure the stability of a multi-million dollar business, and protect the livelihood of those who depended upon the sustained success of Walker's companies. This point will be elaborated upon in the next chapter which discusses the Walker distilling company's efforts to protect the integrity of their export whisky product, Canadian Club.

The overall quality of Walker's character and the success of his work in the business world are tersely summarized by Chauvin when he wrote that Walker "had risen from the secondary and unimportant position of clerk in a grocery store to that of highly-rated commission grain merchant in two countries, distiller in Canada and, above all, had conquered the respect, both as a citizen and business man, of all with whom he had come in contact during that period of time."³² In Walkerville, Hiram Walker's energy and business initiative furnished the impetus for the creation of a well known, first-rate distillery; established the conditions that facilitated the subsequent industrial development of the area; provided educational

facilities and a church for the community; and instilled the town with a sense of civic pride. In part, these accomplishments can be viewed as a consequence of the vitality of Walker's character; for example, despite the failure of Walker's first two attempts to establish a business in Detroit, he made a third effort to attain business success which resulted in the outcome he desired. Walker also had a remarkable capacity for sustained hard-work. Chauvin points out that Walker did not seriously contemplate leisure a great deal until he purchased I'lle aux Peches, an island near the head of the Detroit River at the age of 66 - for the purpose of recreation.³³ "Hitherto work had been his only enjoyment. To him leisure was waste, and man cannot hope for achievements if they waste the fleeting time."³⁴ Although Walker's business practices were based upon the 19th century work ethic which made hard work tantamount to virtue and often attributed an individual's hardships were a shortcoming in a person's character; he did not neglect to provide charity for those less fortunate than himself. For example, in 1874 he distributed five thousand dollars worth of food amongst needy families in Walkerville, Detroit and Windsor, and in 1896 he contributed one hundred and fifty thousand dollars toward the construction of a children's hospital in Detroit. Hiram Walker died in 1899 and The Detroit Free Press published the following epithet to Walker's life on January 13, 1899: "he grasped a great business opportunity and won; and through various philanthropies enabled others less fortunate to share in the fruits of his success."³⁵

The previously discussed biographical information relating to Hiram Walker's life and work has provided the reader with a summary view of the character and nature of his achievements. Much of the evidence examined in this chapter evinces Walker's efforts to establish a good reputation in business and social welfare, and suggests that he wished to protect this carefully attained recognition. Moreover, the quality and success that was associated with the Walker name undoubtedly enhanced the sale of Walker's products. There is only one small example of a failure that may be contrasted with Hiram Walker's flourishing business enterprises - this failure occurred when he attempted to cultivate a cranberry marsh in Marshfield.³⁶ Walker's success in business, the quality of his products, and his model personal conduct evolved into a tradition that was connected with his name and accomplishments. This tradition constituted a precedent that was referred to by Walker's representatives during the Whisky Wars of the early 20th century.

Chapter II.

Hiram Walker and Sons and the American Market

The second chapter of this study examines the export trade of Hiram Walker's rye whisky to the United States and focuses upon the years between 1880-1896. During these years Hiram Walker's whisky developed a reputation for exceptional quality and became a popular drink in the United States. Although the company welcomed the commercial success of their U.S. whisky sales, they experienced difficulties in the American market with imitators who counterfeited the Walker whisky insignia thereby misrepresenting their products and deceiving consumers into buying a fraudulent brand of whisky. An examination of the Walker Company's efforts to combat such fraud demonstrates the considerable emphasis that the company placed upon maintaining the integrity of their whisky label in the U.S. The following discussion illustrates the social, economic, governmental and legal factors which affected the Walker Company's U.S. rye whisky sales prior to the passage of the food law.

With the advent of such forces as immigration, industrialization and improvements in agricultural techniques, many of the cities of late 19th century America grew in size and population at an unprecedented rate.¹ This development was accompanied by an evolution in the production basis of American

society which passed from handicraft and small scale industry to a more specialized commercial economy based on large scale manufacturing. America's demographic transformation from an agrarian society to an increasingly urbanized nation began prior to the Civil War and was sustained throughout the rest of the 19th century.² As a result of this growth, large urban metropolitan centres were created in such cities as New York, Chicago, Philadelphia and Detroit which "... quickly became dependent on a steady supply of consumer goods provided by manufacturers, processors and distributors".³ The presence of these large consumer markets provided an opportunity for men such as Hiram Walker to sell their products on markets unequalled in size during past epochs of history.

The ideological underpinnings of 19th century America's market structure and the consumer's role in relation to that structure was evinced a century earlier by the enlightened economist Adam Smith. In The Wealth of Nations Smith writes that "consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer."⁴ Smith's notion of the consumer's role in the market made several assumptions: since the consumer knew which goods would fulfill his particular needs and desires when he made a purchase, he was obligated to discern from the quality and price of the various goods available an item with the highest quality and the lowest possible price.⁵ The production of goods was determined by

demand and when this precept was combined with freemarket competition, each consumer was enabled to pursue his own self interest.⁶ Smith envisaged an unregulated or laissez-faire economic system, "... the laws of supply and demand were natural laws in society, and could not be meddled with except to do harm."⁷

During the 19th century consumer behavior became subject to the laws of utility. The progenitor of the laws of utility, Jeremy Bentham, argued that "human happiness" determined the highest moral good, thus economic transactions occurred in the marketplace to increase the satisfaction, pleasure or utility of an individual's existence and minimize discomfort in a person's life.⁸ "Like profit for the producer, utility would be the yardstick for the consumer. To achieve maximum utility, each consumer had to spend his money in such a way that the utilities from each of his final purchases were equal."⁹ The theory did not illustrate the calculations which a consumer should utilize to attain such an end; however, Bentham was convinced that if a consumer's action was guided by reason he was assured of gaining maximum satisfaction from a given purchase.¹⁰

In the simplistic consumer-producer relationships outlined by Smith and Bentham the consumer sought to purchase merchandise of high quality at a low price. Prior to the late 19th century, the buyer often knew the seller personally, or the communities in America were small enough to make it relatively easy for a

consumer to seek redress for dissatisfaction with a product. Moreover, a consumer could ruin a particular market for a seller by expressing his discontent with the seller's product to the community. In this ethos, the imposition of regulation and inspection on the nation's economic activities was deemed unnecessary; however, the situation began to change when the affects of the confluence of such forces as industrialization and urbanization became evident. In this connection, Lawrence P. Feldman argues that "the post-Civil War period saw the advent of large-scale production of many goods embodying technologies and processes unfamiliar to the buyer, with much of the production taking place in locations remote from markets in factories owned by impersonal corporations."¹¹ These developments led to a vicissitude in the market's structure; the era became known as a seller's market, "and all kinds of fraudulent, shoddy, adulterated, and dangerous products were pumped into the marketplace."¹² In part, these practices were the result of the attitudes of men such as William H. Vanderbilt who ascribed to the slogan "the public be damned." In a similar vein, Richard Hofstadter wrote in Social Darwinism In American Thought that "the idea of the struggle for existence threatened to precipitate a collapse of ethical standards in an age when the survival of the fittest rolled glibly off everyone's tongue."¹³ By the late 19th century the impact of these social, technological and market changes had seriously undermined the traditional buyer-seller relationships of past ages and created a need for legislative reform to protect the public.¹⁴

With the transition from an agrarian to industrial based economy, consumers were compelled to adjust to new patterns of working and spending.¹⁵ In the rustic manner of previous ages, the family unit produced the goods that it consumed on the homestead; conversely, in the large urban centres, people labored for wages and then bought the goods which they consumed with the income derived from their wages or salary.¹⁶ In the cities the consumer was offered a bewildering variety and complexity of products which frequently placed him at a disadvantage when he attempted to determine the quality or usefulness of a given product.¹⁷ For example, many consumers were unable to assess the quality or usefulness of such technologically advanced products as electrical and gas appliances, new textiles, medicines, drugs, cosmetics, food stabilizers and additives.¹⁸ In addition, the consumer was dependent upon information provided by the sellers which could be incomplete, fraudulent or misleading.¹⁹ In this regard Creighton writes that as industrial technology provided the way for mass production, business found it necessary to find corresponding ways of mass selling.²⁰ As a consequence of this development, business "emphasis on sales through advertising and new products further diminished the power of consumers by restricting consumer information about the comparative value of the goods they bought."²¹

Much of the previous discussion illustrates that many of the

consumer abuses that persisted throughout the late 19th century in America were of an intentional nature on the part of business. The failure of government and business to introduce regulatory measures that would have ameliorated some of the abuses inherent to the unregulated marketplace suggests that the prevailing laissez-faire economic system served business and government's interests. Furthermore, most of the men who were managing businesses and the functions of government maintained an affinity to the ideological commitment that society gained from minimal government intervention in the nation's economy and marketplace.²² As a result of this politico-social view, the only opposition to the fraudulent business practices of the era were led, financed and supported by those interests damaged by the prevailing economic-social conditions.²³ The Walker Company's struggle with the fraudulent imitators of their whisky label constitutes a good example of the extent of the disorder which the laissez-faire business practices of the age could afflict on a business, and a significant case in which a private interest contested fraud in the absence of coherent legal and governmental regulation. Before discussing the specifics of the Walker case, it is instructive to review the development of the whisky industry and market in the U.S.

Prior to the late 19th century, much of the whisky that was distilled in America was a raw spirit of fire and strength that was deemed suitable to the often brutal way of life on America's frontier.²⁴ In this epoch few of the distillers matured the

whisky they marketed and most of the whisky that was purchased by the public was usually taken immediately from the still.²⁵ Brian Murphy writes in The World Book of Whisky that "it would be hard today to recapture the pungency and flavor of this kind of whisky, the kind that General Ulysses Grant was known to be so fond of, or that the cowboys splashed into their tumblers in the saloons of Dodge City."²⁶ Whisky was produced and characterized in this manner because no refinements were expected in the flavor and quality of the drink. When America began to pass from an agrarian society to an urban nation, the affluence engendered by this shift created a demand for better standards of whisky. In addition, the U.S. government's desperate need for revenue to finance its military effort during the Civil War led to the institution of a tax on whisky.²⁷ As a result of this tax, the purchasing price of whisky increased and induced a number of distillers to age their product thereby enhancing the quality of the whisky they offered for sale on the tax inflated market.²⁸ American consumers were receptive to the higher priced aged whisky provided that it ensured certain standards of quality.²⁹ Some argue the higher costs of whisky generated by the government taxes facilitated the beginning of the process of rationalization in the American whisky industry. The slow and controversial rationalization of the whisky industry frequently constituted a source of pique not only to the public but also to business interests such as the Walker Company.

In many cases the troubled history of the growth of the

whisky industry in the late 19th century may be attributed to the laissez-faire market conditions of the age. For example, the government tacitly accepted the ascendancy of Kentucky bourbon on the American market which was at times aggressively and unethically defended by bourbon interests in Louisville.³⁰ Another instance involves the suspicious actions of Orville Babcock, a presidential aide of Grant, who was accused of defrauding the government by an alleged association with a whisky ring that was cheating on its taxes.³¹ In the 1880s a trust began to operate in the American whisky industry which attempted to control every aspect of whisky production, competition and sales. The consolidation of the whisky trust which was called the Distilling and Cattle Feeding Association was achieved by employing ruthless tactics to eliminate competition such as price slashing, and when this method failed they would resort to violence, fraud or intimidation.³² "By February, 1888 only two large independents out of eighty distilleries resisted the combination."³³ This brief discussion concerning the early growth years of the whisky industry indicates that when Hiram Walker decided to sell his whisky on the American market, his product was entering an unstable marketplace in which market related difficulties were likely to occur.

Before the Civil War, previous generations of distillers in the U.S. sold their whisky by distributing it in bulk like any other agricultural commodity and did not retain identification with their product after such sales.³⁴ The development of

the trademark concept is often associated with production increases facilitated by industrialization which led manufacturers to seek bigger markets for their enlarged inventories.³⁵ Some manufacturers expanded their markets by selling their products in distant areas which prevented consumers from experiencing a direct acquaintance with the producers.³⁶ To compensate for this lack of familiarity, the producers began to identify with their products by placing a trademark or insignia upon the goods which they sold in the marketplace.³⁷ The trademark allowed the consumer to reward the producer by repeatedly purchasing the goods he liked or to chastise the producer by never buying the same product again. Walton tersely states that "Hiram Walker's whisky was probably not the first to be bottled and trademarked by a distiller, however, its success had much to do with building the brand name concept in distilled spirits."³⁸

Prior to discussing the measures and stratagems adopted by the Walker Company to combat the dealers who fraudulently inscribed an imitation of the Walker label on their bottles, it would be of relevance to briefly examine the legal context of trademark problems in late 19th century America. Frank Schechter argues in The Historical Foundations of The Law Relating To Trade-Marks, that in the late 19th century "legal evolution had not kept pace with functional change."³⁹ Schechter points out that as late as 1870, the Supreme Court of the state of Illinois was unable to define the term trademark in an incisive

manner. In the past the courts had viewed the trademark as indicative of "the specific ownership or origin of the goods" to which a trademark was affixed. This interpretation of a trademark's usage became antiquated given the modern methods of distribution and the national rates of expansion of various business firm's sales, which prevented the buyer from obtaining knowledge about the "specific source" or "origins" of a product.⁴⁰ Although the consumer did not always wish to acquire familiarity with the company that created a product, a certain trademark in connection with a product often assured the consumer with a reliable standard of quality.⁴¹ For example, many consumers were not familiar with Hiram Walker or his distilling company, however, when the trademark label "Canadian Club Whisky" was affixed to a bottle purchased by consumers, they were guaranteed a good whisky product. Some of those who transgressed trademark rights defended their actions on the basis of public ignorance: since the public was not aware of the "specific source" or "origins" of a product, the public was not deceived into buying the defendant's instead of the plaintiff's product.⁴² Mr. Justice Homes, a junior judge of the Supreme Court of Massachusetts, recognized the need to obviate such fraudulent practices when he stated in 1890 that the purpose of trademark law "... was to prevent one man from palming off his goods as another's, from getting another's business or injuring his reputation by unfair means, and, perhaps, from defrauding the public."⁴³ Gradually, the court's interpretation of the concept of trademark began to change from indicating whether or

not a certain trademark emanated from a particular source to upholding the significance of certain characteristics or personalities associated with a product that were favorably known to a consumer. The courts began to realize that "the consumer does not regard the trademark as an indication of origin but rather as a guarantee that the goods purchased under the trademark will have the same meritorious qualities as those previously noted by him in his purchase of other goods bearing the same mark. The mark sells the goods."⁴⁴ One other difficulty associated with trademark law concerned the legality of whether or not a trademark constituted a property right. This problem was not resolved until 1915, when the Supreme Court ruled that "the trademark is treated as merely a protection for the goodwill, and is not the subject of property except in connection with an existing business."⁴⁵

Hiram Walker began to sell his popular brand of whisky named "Walker's Club" in Canada a few years after production commenced in his Canadian distillery. The success Walker experienced with the Canadian sales of his product encouraged him to export "Walker's Club" to England and Ireland. The skillfully blended and mature whisky that Walker introduced to England and Ireland became commercially successful as a quality imported whisky. Given the popularity of Walker's Club whisky in Canada, England and Ireland, the company decided to export their whisky to the U.S., despite the high U.S. tariff on imported spirits.⁴⁶ Apparently the tariff constituted a formidable barrier to the

Walker Company's successful establishment of a whisky export business in the U.S. When the company first considered selling Walker's Club in the U.S. market, the tariff levied on each bottle of imported whisky amounted to 42 cents.⁴⁷ In spite of the added expense created by the tariff, the Walker's confidently surmised that the quality and excellence of their product would make their whisky popular in the U.S. and help them establish a market that was large enough to counteract the affects of the high tariff. To prepare for sales in the U.S., the Walker Company aged extra gallonage and introduced "Walker's Club" to American whisky consumers in 1882.⁴⁸

The quality blended whisky, Walker's Club, pleased American tastes and subsequently became a competitive product to the whisky manufactured by American distillers. The American whisky interests, perceiving Walker's Club as a threat to their hegemony, developed an argument to protest against the Canadian export. The bourbon manufacturers argued that the consumers who bought Walker's Club mistakenly assumed that they were purchasing the type of whisky distilled in Kentucky by the American process. Therefore, they demanded a law be imposed on the Canadian company which required them to clearly distinguish their method of production on the label of their whisky.⁴⁹ Politicians who spoke on behalf of the American distillers in Kentucky included Senators James B. Beck and John S. Williams and House Representatives, J. Proctor Knott, John G. Carlisle and Joseph C.S. Blackburn. As a result of this political pressure, the

Walker Company changed the name of their whisky from "Walker's Club" to "Canadian Club" and clearly stated on the label their product's origin and method of production. When the Walker Company began to sell their newly entitled "Canadian Club" whisky on the U.S. market, the increased success of the new label undoubtedly pleased the Walker's and astounded the bourbon industry. Evidently, the bourbon industries' ploy to diminish the Walker Company's whisky sales had the contrary effect and hastened the growth of Walker's whisky sales in the U.S. Gerald Carson surmises in The Social History of Bourbon that the disturbing growth of the Walker Company sales furnished the American whisky interests with a valuable lesson, "when a distiller wished to find markets far from home, the way to become favorably known was to develop a trademark."⁵⁰ Moreover, the dispute initiated by the American whisky interests inadvertently provided Canadian Club whisky with public exposure and advertising which it otherwise would not have received. Lastly, this case provides a pertinent example of the aggressive tactics which the bourbon industry could resort to against competition that threatened the sales of American bourbon whisky.

The aforementioned suggests that promotions, advertisements and trademarks associated with whisky products became increasingly important factors in the marketing of spirits in the late 19th century. Although the significance of the trademark was noted by the major whisky manufacturers of the U.S., the marketing of the final product was delegated to the various

distributors which allowed corrupt sellers in the absence of the manufacturer's or government's supervision to misrepresent and adulterate the whisky that they sold. This difficulty was exacerbated by the fact that "the problem of finding the consumer rested with the distributor, not the manufacturer" and "obviously under this system, labels were of uncertain value as a guide to the consumer."⁵¹

Unfortunately for Hiram Walker, the popularity of Canadian Club whisky induced imitators to fraudulently misrepresent the whisky they retailed as the blend of spirits sold by the Walker Company.⁵² The impetus to imitate the Walker label may be attributed to the unregulated market conditions of the era, which gave unprincipled men the opportunity to commit such an infringement of the Walker Company's exclusive legal right to name only their product Canadian Club, free from the worry of punishment. Chauvin writes in regard to the men who conducted such fraudulent practices that "they flooded the country with new and cheap whiskies which they represented to the unsuspecting American public as the genuine products of Hiram Walker and Sons, or other Canadian Manufacturers."⁵³

In the early 1890s the proliferation of the imitators' activities compelled the Walker Company to take action against those who were violating the integrity of the Walker label. To apprehend the imitators for legal trial, the Walker Company employed a number of agents in the U.S. in order to find dealers who were selling spurious liquors.⁵⁴ Their stratagem was

based on the intention of defending the integrity of the Canadian Club label and the need for direct action to react to a perceived threat of the company's U.S. sales. Apparently this detective system failed to effectively constrict whisky frauds thus the imitation of whisky labels and the adulteration of the contents continued throughout the 1890s. The foreworded problems were aggravated by the high costs of court action which made prosecution expensive, and when a case did go to trial it was often difficult to convince jurors in favor of the plaintiff.⁵⁵ Lastly, Carson points out that "when the courts did enjoin the sale and award damages, the imitator could always start up again trespassing upon some other trademark."⁵⁶

Until 1897 there were no standards of uniformity regulating the ingredients contained in whisky products or the process of production. A distributor or bartender could purchase whisky and alter the contents as he wished.⁵⁷ Once the manufacturer had paid the proof gallon tax and the barrel of whisky was removed from warehouse storage, government supervision and regulation of the product ended.⁵⁸ As a result of this lax regulation, a distiller might distribute whisky that was aged three years in one community and six years in another locality.⁵⁹ "Sentiment developed for marketing whisky in bottles which would be corked, sealed, sold under proprietary names, with a guarantee of integrity from the United States Government."⁶⁰ Men such as Colonel Taylor lobbied assiduously for legislation that would require various sellers to print on their labels what ingredients

were contained in the whisky they sold.⁶¹ The Committee on the Judiciary of the House of Representatives conducted an enquiry into the state of the whisky market and recommended legislation to protect the public from the adulteration and counterfeiting of whisky products.⁶² The Committee's investigation led to the enactment of the Bottling in Bond Act which was signed by President Cleveland in 1897. As a result of this law, a green stripped label was placed over the cork or cap of a bottle which indicated the season of distillation and bottling - in order to receive the government seal the contents of the bottle had to be aged at least four years.⁶³ "The stamp constituted a guarantee that the whisky was bottled at 100 proof and that nothing had been added after distillation except water."⁶⁴ The stamp did not ensure careful sanitation practices, the quality of the grain or yeast used to manufacture the whisky, or the competence of the distiller.⁶⁵ Carson argues that the passage of the Bottling in Bond Act was the fulfillment of a trend that may be traced to the forty year old custom of bourbon sellers who bonded whisky aged in charred barrels. "The new feature was distillery bottling under government supervision."⁶⁶

Although the institution of the Bottling in Bond Act was regarded by various distillers as a triumph that would allow consumers to distinguish quality aged whisky from blends, imitations and poorly produced whisky; it failed to preclude the business of whisky counterfeiters. It is of significance to note

that by 1898, a year after the Bottling in Bond Act was sanctioned by President Cleveland, the Walker Company had expanded the aggressive billboard campaign against the imitators of Canadian Club whisky. Billboards placed on strategic locations in various American cities informed the public about the retailers whom were selling fraudulent whisky. Perhaps one may surmise that the Walker Company's frustration with the inability of the Bottling in Bond Act to end the counterfeiters' operations which damaged the integrity of the Canadian Club label, heightened the company's desire to undertake drastic action such as the billboard campaign. The poster campaign against whisky imitators attests to the extent of the importance that the Walker Company placed on upholding the integrity of the Canadian Club label, and the expedience with which the company could react to a situation that was deemed a threat to its stability.⁶⁷

After 1898, the Walker Company continued to have detectives patrol the market in search of counterfeiters and they increasingly advertised in various newspapers and on billboards the names of the dealers who were selling spurious whisky and the locations of their operations.⁶⁸ Walton writes that the posters "warned the public with daring advertisements that described the crime, listed the offensive brands, named the fakers, and invited suits for libel."⁶⁹ Several posters that typify the Walker Company's advertisements to expose frauds committed by imitators were posted in Springfield, Illinois and

Davenport, Iowa. The poster that was erected in Springfield provides details relating to a fraud that was perpetrated by Patrick H. Gibbon of 216 South Street and Michael E. Walsh of 702 Washington Street. These men were accused of selling a "bogus whisky" which was labelled Canadian Rye Whisky and of misleading consumers into believing that their product was distilled and bottled by W.G. Smith and Brothers of Toronto, Ontario, Canada. The Walker Company poster indicts Gibbon's and Walsh's false labels and states that "there are no such distillers in Canada, the lying labels above described are very like the labels of our famous Canadian Club Whisky." The poster then challenges Gibbon and Walsh to meet the law firm retained by the Walker Company in court if they objected to the accusations printed on the poster.

A second poster which illustrates the vehemence of the Walker Company's billboard campaign against whisky imitators was placed in Davenport. At the top of the poster the words in large black letters read "a swindle these people sell bogus liquors" and then names "George Bowes and Nick Newcomb of 302 East Second Street, Davenport" as guilty parties. The poster identifies the fraudulent label as "Canadian Rye Whisky" which is distilled and bottled by E.H. Johnson and Company Toronto, Ontario, Canada. The advertisement asserts that Bowes and Newcomb had been informed by registered letter that no such distiller exists in Canada and that the product they were retailing was a spurious whisky. The poster also inveighs against the "rascality" of Bowes' and Newcomb's deceptive sales because the labels on the

whisky they were fraudulently selling resembled that of the Walker Company's insignia for Canadian Club. The poster then challenges Bowes and Newcomb to meet the Walker Company's law firm in court if they wished to remonstrate the poster's fulminations against their imitation whisky and fraudulent actions.⁷⁰

Gerald Carson discusses evidence in The Social History of Bourbon which suggests that in some cases the billboard advertisements successfully ended the fraudulent sale of whisky; for example, in Joliet, Illinois, a Walker Company billboard ended a Hotel's practice of selling a spurious whisky as Canadian Club.⁷¹ In 1898 at Chicago, Charles Klyman of 232 East Kenzie Street was found guilty of misrepresenting American whisky as Canadian Club. The court was clement with Klyman. In order to escape a severe punishment, he was required to make a public confession of his guilt which outlined his violation of the Illinois Trademark Act.⁷² At his public confession, Klyman pledged to discontinue the production and sale of all goods that were falsely labelled or described.⁷³

Chauvin writes that the billboard's exposure of various frauds restrained the illicit trade of spurious whisky, but by the turn of the century, unprincipled men had adopted a new method of defrauding the public.⁷⁴ "They carefully omitted to state by whom, or where the liquor they sold was made, but they labelled their whisky" to imply that their product had been

distilled in Canada.⁷⁵ The magnitude of such fraudulent practices was reflected in a circular issued by the company that was dated June 1, 1900.⁷⁶ The letter contained illustrations of forty-two fraudulent whisky products sold on the U.S. market which deceptively claimed to be distilled in Canada.⁷⁷ Another circular was issued on August 1, 1902, refuting dealers who inferred that their whisky had been distilled through a unique Canadian process by denying the existence of a unique Canadian process of producing whisky.⁷⁸ It is of interest to note that the 1902 circular mentioned Cincinnati "...as a center where Canadian whiskies were compounded overnight behind bolts and bars, and the firm of Iler and Company of Omaha is singled out as one of the guilty parties defrauding the innocent American public."⁷⁹ Notwithstanding the company's various efforts to end the practice of whisky imitation - such frauds continued.⁸⁰

Throughout the first decade of the new century the company maintained agents in the U.S. employed to patrol the market for the illicit trade of spurious whisky. In January of 1908, another registered letter was mailed to dealers suspected of selling "pretended Canada whiskies."⁸¹ The letter, like prior ones, described the faked whisky that the dealer addressed was selling, disclosed the identity of the illegitimate whisky sold in the U.S. as Canadian whisky, and listed registered Canadian distillers where genuine whisky could be obtained.⁸² Despite the persistent efforts of the Walker Company to combat

whisky frauds they never succeeded in their campaign to end the illegal trade of whisky counterfeiters.⁸³ As late as 1927, during the era of prohibition, when Chauvin was commissioned to write Hiram Walker's biography, men continued to imitate the Canadian Club label in the U.S.⁸⁴

This chapter's discussion of pertinent historical information demonstrates the significance of the legal, economic, social and ideological factors which influenced the development of Walker's whisky trade in the U.S. As America became a more sophisticated and advanced society in the 19th century with the advent of such modernizing forces as urbanization, industrialization, mass production and consumer society, previous buyer-seller relationships of past ages of history became antiquated.⁸⁵ This difficulty was exacerbated by the government and business leaders' ideological commitment to laissez-faire society, which sanctioned the presence of an unregulated marketplace that allowed business to exploit the consumer. The obtuseness of this social ethos was evinced by the absence of a coherent set of legal and regulatory guidelines. In this case, the failure of the government to uphold trademark rights and restrict consumer fraud can be interpreted as an inadequacy on the part of the federal government to protect the nation's welfare. Eventually, the disorder created by the contagion of unregulated industrial development compelled the federal government to accept more social responsibility and begin to foster America's growth. The Walker Company's problems with

counterfeiters suggests that although an Act such as the Bottling in Bond Act of 1897 constituted unprecedented federal intervention in the spirits industry, and represented a positive step towards regulation in the marketplace, even this act failed to curb the malaise that afflicted the whisky market and the marketplace in general. Ultimately, the institution of a more cogent set of regulatory measures enacted by the federal government was necessary to reduce fraudulent practices in the marketplace and improve the nation's standards of food and drink. In this vein, the Walker Company undoubtedly welcomed the passage of the Food and Drugs Act of 1906, which was designed to furnish the public with better standards of regulation in the food and drug industry.

Chapter III

The Progressive Ferment, Dr. Wiley and the Food and Drugs Act

By the early 20th century many Americans began to realize that the autonomous market system no longer adequately served society's best interest. The impulse to institute social reform was created by the financial upheavals that occurred in the American economy during the 1890s and was sustained by the social problems inherent to uncontrolled industrial, urban and economic expansion. The reformers of this period of history, which is known as the progressive era, were united by a rejection of the laissez-faire conception of the functions of the state, and the conviction that an increase in the government's role in the administration of the state was necessary. The progressive movement "aimed not at the radical replacement of existing institutions, but at their peaceful modification."¹ A central reform of the era, often considered a result of progressive attitudes in the nation is commonly referred to as the Food and Drugs Act of 1906. This chapter examines the various forces that played an integral role in the successful passage of the Food and Drugs Act such as the significance of the progressive movement, muckraker journalism and Dr. Harvey Wiley's assiduous promotion of the Food and Drugs Bill. An assessment of the affects of the regulatory provisions of the Food and Drug Bill which directly influenced the whisky industry and the Walker

Company follows. In so doing, a deeper understanding may be gained into the circumstances that affected the Walker Company's export "Canadian Club" whisky in the U.S. market during the first decade of the 20th Century.

At the beginning of the 20th century, a number of forces gave rise to the need for the reforms that were advocated by various progressives in American society. In many cases, the old values of the 19th century which emphasized the individual's ability to provide for the self no longer seemed relevant in America's new industrial, urban society. For example, the progressive female and pioneer settlement-house worker Jane Addams, pointed out that if a woman's daughter contracted typhoid fever after drinking from the city's contaminated water supply, the doctrine of self-help could not alleviate her troubles when she was a victim of the social conditions that surrounded her. In this connection, social injustices became more apparent with the country's industrial growth. "In contrast to the successful five per cent who owned nearly half of the property, more than one-third of the nation's seventy-six million people in 1900 subsisted below the poverty line."² Since social legislation to which Americans became accustomed to in the post World War II state did not exist at the turn of the century, reformers had to work in an epoch that viewed poverty as the result of shortcomings in an individual's character. Some progressives became apprehensive towards the consolidation of the giant trusts, a process which by the end of the Roosevelt presidency

allowed one per cent of the companies in America to produce forty-five percent of the nation's manufactured goods.³ With the advent of consumer society, mass production and nationwide firms, the public became aware of the role of the consumer and the necessity of protecting the consumer's interests. Citizens in the burgeoning urban centres demanded streetcars, sewers, sidewalks, electric lights and better housing. The progressives who worked to institute reforms to alleviate these problems were generally various groups of people of no particular stereotype who united to form coalitions that pursued limited goals in the public's interest.⁴ These different groups of reformers were cognizant of society's transformation and realized that new methods of action were required to improve social conditions. The progressive manner of ameliorating social conditions was based upon a faith in scientific, rational methods that would prevent disorder and improve the standard of living in America. Despite this commitment to modern methods, progressive improvements were frequently mixed with conformist ideas of the past therefore the government action which shall be discussed later in the chapter should not be confused with the policies of the post World War II state, but rather as a significant forerunner of such policies. Lewis L. Gould succinctly writes that in the two decades following 1900, the progressives articulated many themes that "shaped subsequent national history - government regulation of economic power, the application of scientific ideas to social problems, a concern for the quality

and preservation of the environment, and the reform of political institutions to make progressive government more effective."⁵

On September 14, 1901, Theodore Roosevelt took the oath of office for the Presidency of the United States; generally, historians accept this date as the beginning of the progressive era which includes the Roosevelt, Taft and Wilson years in the White House. There is a wide agreement amongst scholars of the progressive era that views Benjamin De Witt's book The Progressive Movement as the most lucid and judicious account of the progressive program written at the apex of the movement's history. De Witt was twenty-four years old when he submitted his manuscript to a New York publisher in 1914. By this time he had earned an M.A., L.L.B. and taught English and Government at New York University. In the first pages of the book, De Witt writes that the progressive movement was guided by the following three tendencies:

"The first of these tendencies is found in the insistence by the best men in all political parties that special, minority, and corrupt influence in government-national, state, and city-be removed; the second tendency is found in the demand that the structure or machinery of government, which has hitherto been admirably adapted to control by the few, be so changed and modified that it will be more difficult for the few, and easier for the many, to control; and, finally, the third tendency is found in the rapidly growing conviction that the functions of government at present are too restricted and that they must be increased and extended to relieve social and economic distress."⁶

Arthur Mann contends that De Witt made an important

distinction between the regulatory state and the welfare state which constitutes an insight that was shared by few of his contemporaries. In this vein, De Witt noted that the trends toward the regulatory state and the welfare state shared a fundamental correspondence in the desire to eliminate corruption; however, the latter increased the functions of the state to stabilize the economy, and the regulatory movement was designed to relieve the suffering of the poor.⁷ In Summary, De Witt demonstrated that the progressive movement concentrated upon instituting regulatory legislation, rather than attempting to create a welfare state.

Overall, the progressives of the early 20th century did achieve a considerable amount of success: they obtained a federal income tax, more humane labor legislation in various states, regulatory commissions that exercised a small measure of control over manufacturing and transportation, a greater amount of rationalization in city governments, the vote for women, the direct election of Senators, and in several states they successfully instituted the direct primary, the initiative and the referendum. When progressive criticism was aimed at business they did not object to the efficiency of such operations, but they expressed disdain towards the unscrupulous promoters who misused and deceived the public.⁸ Some progressives argued that the rational structure of the trusts provided an exemplar model upon which government and social reform could be based.⁹ In attempting to determine who were the individuals

that comprised the progressive movement and worked to institute such reforms, evidence suggests there was "no typical age, status, background, religion or education."¹⁰ Studies which had placed middle class, protestant professionals at the centre of the progressive movement were vitiated when enquiries into the social background of the counter reform leaders showed that they had similar ethnic, religious and occupational traits. Gould writes that "movements with tolerable progressive credentials have been found in the agrarian South, among machine politicians in the city, within technical and professional groups, the military, the arts, as well as in the more familiar political environs of middle-class America."¹¹ Robert H. Wiebe demonstrates in his book Businessmen And Reform that even businessmen of the era held varied relations with progressive reform. The progressive response of different individuals and organizations took such different forms that one can speak of the progressivism of John Dewey in education, Frederick Taylor in rationalizing factory production, or the reform thrusts of America's churches, universities, social workers, and journalists. As a result of the number of variations in progressive thought and action, the spirit of progressive reform does not furnish the historian with an axiomatic definition.

The authors of The Great Republic write that in many instances the progressives were furnished with an agenda for social reform by the muckracker journalists. The term muckraker was given to the journalists who used a pejorative, sensational,

editorial style of reporting to expose economic, social and political injustices. Theodore Roosevelt charged that the muckraker's relentless exposure of corruption impeded rather than assisted his efforts to improve American social conditions. It is unknown whether Roosevelt borrowed the term from Henry George's Progress And Poverty or the sullen character Muckraker who refused a celestial crown for a muckrake in John Bunyan's allegorical book Pilgrim's Progress.¹² Despite the pessimism that was often associated with the term muckraker, leading muckraker journalists such as Ray Stannard Baker, Christopher Connolly, Will Irwin, Thomas Lawson, Alfred Lewis and Ida Tarbell defiantly accepted this appellation as a vindication of "their devotion to the Jeffersonian principle of a free and vigilant press."¹³

The muckraker's journalism was based upon three critical issues: "corruption in government, the irresponsibility of the trusts and the exploitation of women and children."¹⁴ Between 1903 and 1912 nearly 2,000 muckraker articles were published in the popular magazines of America.¹⁵ The widespread dissemination of muckraker journalism made Americans aware of the social disorder created by new economic developments that clashed with old precepts and customs. The growth of muckraker journalism may be attributed to technological advances in the late 19th century which facilitated the production of inexpensive magazines, and the appearance of young, articulate, reform-minded journalists in the nation's urban centres.¹⁶

The muckraker magazines were purchased largely by members of the lower and middle income groups. From the beginning, this genre of journalism was sustained by the profits acquired from magazine sales. "S.S. McClure, founder of McClure's was one of the pioneer explorers of the lucrative field of reform journalism, and he was quickly joined by dozens of competitors drawn to social criticism by their keen sense of the market and the prospect of sizable profits."¹⁷

The topics of muckraker journalism frequently encompassed a wide variety of social problems such as corruption at the city, state and federal levels of government, big business, the judicial system, labor, food, drugs and public health. Harold S. Wilson writes that muckraker magazines like McClure's became a forum in which the nature and direction of American society and government was debated.¹⁸ This was achieved by a novel method of factual reporting that was combined with a traditional form of moral outrage.¹⁹ They masterfully illustrated the contradiction between cherished American ideals and the astonishing reality of social disparity. To substantiate their arguments, the muckrakers carefully accumulated facts that were usually obtained from court records or Congressional investigations.²⁰ The muckrakers presented their facts in a manner that evoked optimum publicity to gain support for various causes. "Muckraking thus presented a publicity technique rather than a philosophy, a popular journalistic style rather than a searching analysis."²¹

An aspect of muckraker journalism that is of relevance to examine, concerns the muckraker's support for the passage of a bill that would regulate the food and drugs industry. An article by Henry Needham typifies the muckraker's critical attitude towards the politicians and the food and drugs interests who delayed the passage of a pure Food and Drugs Act. The article is entitled "The Senate of special interests" and basically it discusses the fate of the pure food bill when it was debated by the Senate in 1904 and 1905. The bill was introduced by Senator Heyburn of Idaho and read in the Senate on December 12, 1904. After Senator Heyburn read the bill, Senator McCumber implored the Senate to vote on it because pure food supporters in the Senate had been unable to obtain a vote for over four years. The article quotes Senator McCumber's plea for a vote and follows his speech with a short phrase in suspended points, "Four years without a vote!"²² Needham then writes that "an unusual event occurred Tuesday, December 13th. The 'Boss' of the Senate made a speech."²³ The article quotes Senate leader and ex-grocer Aldrich's impassioned speech at length. Apparently he maintained a fundamental objection to the sections of the pure food bill that sanctioned the prosecution of dealers who imported adulterated or misbranded foods. Aldrich also said that the government had no authority to legislate "as to what a man shall eat and what a man shall drink, and put him under severe penalties if he is eating or drinking something different from what the chemists of the Agricultural Department think it is

desirable for him to eat or drink!"²⁴ Needham follows the Senator's remarks with an extremely colloquial phrase, "if clap-trap were not common in the chamber, Senators would have been convulsed at the high priest of 'Special Interests,' fighting for the liberty of all the people of the United States."²⁵

After discussing this humorous interlocution in the Senate, the article reports further on the dynamics of the debate between the supporters and opponents of the pure food bill during the 1904 - 1905 session. Needham castigated Senator Lodge for proposing an amendment which "permitted the use of preservatives in goods packed for export."²⁶ Needham also asserted that Lodge's motive for proposing such an amendment was based upon an association with the cod preserving industry and upon the knowledge that boric acid was used instead of salt to preserve cod.²⁷ The article concludes by commenting upon the ease in which the Senate was sidetracked from considering pure-food legislation by more pressing matters such as a bill that would authorize the President to appoint three cadets to the naval service after they had been dismissed from the academy for participating in a hazing incident.²⁸ Henry Needham's article was the epitome of the muckraker's journalistic style and, moreover, illustrates their endorsement of food and drugs regulatory measures.

Although the muckraker's were well known for their dramatic, fact-oriented journalism their literary efforts were not as

successful except for one notable work written by Upton Sinclair entitled The Jungle. In short, the book is a fictionalized account of the struggles of an immigrant Lithuanian family, and the dubious operations of the Chicago meatpacking industry. By the time Upton Sinclair began to research his novel in 1904, he had finished graduate school and published a number of muckraker articles.²⁹ To research the story Sinclair went undercover in the Chicago Meat packing plants as a common working man and in the evenings he would go to the worker's homes to observe and ask questions about their lives.³⁰ The moving story which Sinclair penned as a result of this research, invoked sympathy and despair for the Lithuanian family and disgust with the Chicago meatpackers. In relation to the latter, Sinclair traced the shipment of diseased cattle from the West to the slaughterhouse which had "developed lumpy jaw, or fell sick, or dried up of old age", carcasses, "covered with boils that were full of matter." In retrospect Sinclair wrote that the commissioners who had examined the validity of his accusations against the meatpacking plants told him that the only charge which they could not prove was "that men had fallen into the lard vats and gone out to the world as pure leaf lard."³¹ Sinclair adds that of course it was difficult to prove this "since in each case the families had been paid off and shipped to other parts of the world."³² Sinclair's exposure of the meatpacking industry affirmed the public's suspicions towards the processing practices of the Chicago meatpackers which first began when hundreds of American soldiers became sick after eating

embalmed beef during the Spanish-American War.³³ The Jungle horrified Americans whose indignation with the Chicago meatpackers helped lead to the successful passage of a law to regulate the food and drugs industry. The book was highly successful in arousing America to outrage with the quality of the meat products which it consumed. Ironically, Sinclair had written the novel with the intention of informing America about the exploitive conditions in a workingman's life and propagating socialist ideology.

The assiduous work of Harvey Washington Wiley, who was Chief Chemist of the United States Department of Agriculture and the foremost pure food reformer in America at the turn of the century, was instrumental in achieving the successful passage of the Food and Drugs Act of 1906. Wiley was born in a log cabin at Kent, Indiana, the sixth child of Preston and Lucinda Wiley. Young Wiley's elementary education was acquired at a log schoolhouse in a neighboring district and at home under the guidance of his strict and conscientious parents.³⁴ In 1863, Wiley entered Hanover College, a Presbyterian school, where he remained until his studies were interrupted a year later by the sectional conflict of the American Civil War. Wiley served as a corporal for the 137th Regiment of Indiana Volunteers. Following the war Wiley returned to Hanover and graduated in 1867. Although Wiley had decided to enter medical school, he temporarily accepted a position in a public school at Lowell, a small community in Indiana, and departed several months later, in

his words "not much richer in money but a millionaire in experience."³⁵ After this teaching experience, Wiley accepted employment as a tutor in Latin and Greek at Northwestern Christian University in Indianapolis. In 1869 Wiley began to study medicine at the Indiana Medical College while simultaneously maintaining his tutoring job at Northwestern Christian. Formal medical training did not take a long time during this period of history; after two four month terms between 1869 and 1871, Wiley obtained an M.D. degree. In 1873 he received the degree of Bachelor of Science from Harvard University and then returned to Indianapolis to assume a professorship of Chemistry at Butler University and the Medical College of Indiana. After suffering for a brief period of time from a mild case of neurasthenia induced by physical and mental exhaustion, he became a professor of chemistry at Purdue University and served as a state chemist for Indiana.³⁶

In 1878 Wiley travelled abroad to Germany where he attended various lectures at the University of Berlin. Anderson writes that the selection of the courses which Wiley chose to attend reflected his personal struggle between interests in medicine and science. He audited medical classes such as "Reymond on physiology, Virchow on pathology, and he observed at Martin's gynecological clinic."³⁷ Non medical instruction included lectures on physics by Helmotz and Kirchoff and, more importantly, he was introduced to the study of food adulteration by listening to lectures given by Sell, the Imperial German

Health Officer. In addition to hearing Sell's lectures on food adulteration, Wiley visited the government laboratory that was directed by Sell for the examination of food and drink.³⁸ Wiley was fascinated by the instruments and methods used by Sell for the purpose of detecting impurities in food products. Wiley learned how to operate several instruments such as the polariscope which could determine the existence of bacteria in various samples, and the spectra apparatus which deconstituted light emitted by a sample for analysis. He concluded that these instruments could be useful in determining the chemical constituents of food and drink in America.³⁹

With the practical training that Wiley obtained from his study and observation in Germany, he returned to Purdue and energetically began to work on various analytical studies facilitated by the polariscope. For example, in the June 1881, issue of the monthly journal Popular Science, he published an article in which he discussed the properties of glucose and grape sugar and outlined the inherent advantages of using such products as adulterants. As a result of such work, Wiley developed a sound reputation as an authority on the subject of sugar chemistry. In 1883, Wiley was appointed to the position of Chief Chemist of the United States Department of Agriculture. He was not certain whether he would accept this appointment until it was decided who was going to be the next President of Purdue University - Wiley intended to fill this position if it was offered to him. Since Wiley was not given the Presidency of

Purdue, he left the university to assume the duties of Chief Chemist of the Department of Agriculture at the nation's capital.

When Wiley began to work in the Department of Agriculture it was comprised of approximately ten professional employees, a stenographer and a black laborer. In the first ten years of Wiley's tenure at the Department of Agriculture, he conducted a large amount of scientific research involving the application of diffusion to the extraction of sugar from sugar cane, and determined the geographic and climatic boundaries within which sugar beets may be successfully cultivated in the U.S.⁴⁰ Although by 1893 the U.S. had not gained an indigenous supply of sugar that could compete on the domestic market without protection, Wiley maintained that the diligent work of the Department of Agriculture had reduced the costs of the production of cane, beet and sorghum sugar from six to four cents a pound.⁴¹ The sugar industries' appreciation for Wiley's hard work was evident in the political and financial support provided by the sugar interests towards the continued existence of the Department of Agriculture; in fact, the size of the department's budget was dependent upon the monetary aid given by the sugar industry.⁴² Despite this aid which constituted a fundamental core of the Department of Agriculture's budget, their support was narrowly based and limited in comparison "with the bulwark that the more general work of the Bureau of Animal Industry established among the nation's farmers."⁴³ The experience that Wiley derived from his early years with the Department of

Agriculture and his work with the sugar industry "played a significant role in Wiley's development as a government official."⁴⁴ He became adept at the techniques of political lobbying and learned how to negotiate with Congressional appropriation committees, which gave him skills for future bureaucratic interactions with government officials in Washington.⁴⁵ During these years Wiley also became accustomed to the criticisms generated by the press and other malcontents, which was endemic to any position in public office, and, ultimately, such criticisms firmed his resolve to proceed with causes he deemed just in spite of opposition.⁴⁶ By the end of Wiley's first decade as Chief Chemist of the Department of Agriculture, he was distinguished as an innovative, competent scientist and a seasoned public official who was sapient in the administrative functions of the nation's capital.

Throughout the 1890s Doctor Wiley became increasingly aware of the problems with food adulteration in the American marketplace. Wiley wrote in his book An Autobiography that "the whole system of food supply was assuming a different appearance during the eighties."⁴⁷ He pointed out that manufacturers of food products used "the cheapest and most convenient methods of preserving their products, and the adulteration and misbranding of foods were the natural consequences."⁴⁸ By the turn of the century the practice of adding such adulterants as borax, salicylic acid and formaldehyde to food products had been refined and was widespread amongst American food manufacturers and

processors. Although attempts to control the trade of adulterated products were made at city and state levels of government; the resultant legislation was usually inadequate.⁴⁹ The failure of the various states to effectively regulate food adulteration may be attributed to several factors, firstly, a state could not enforce its regulations against an out-of-state manufacturer who violated the law, therefore it was difficult to protect the consumer with legislation that was confined to the state, and, secondly, the laws enacted by the various states were not always designed to protect the public, but rather to assist certain interests which could not compete against adulterated products that, for example, might have a longer shelf life.⁵⁰ An outraged muckraker named Irving Fisher wrote an article that satirized the states' inability to regulate dairy products entitled "A Department of Dollars vs a Department of Health." He begins the story by suggesting that "there is little conservation of life except in the cases of animals and plants," and then sardonically notes that "these have commercial value." Fisher writes that when dairies separate the skimmed milk which is used to feed hogs from the cream that is used to make butter, "the law actually compels the dairies to sterilize the hog's part, but does not compel them to sterilize the part used for human consumption."⁵¹

Harvey Wiley's view of the adulteration of food products may be clarified by briefly examining testimony he gave before the Senate Committee on Manufactures which conducted an investigation

on food adulteration in 1899 and 1900. According to Wiley pure food was primarily an ethical matter that bound producers to list the contents of their product clearly on the label. In other words, Wiley espoused an honest labelling policy that required manufacturers to inform the public about the contents of a product; however, he did not sanction restrictive or prohibitory legislation at this time. Wiley's objection to the adulteration of food products was not based upon the possible dangers such practices could inflict upon the nation's health, but that in many cases food adulteration was tantamount to fraud.

A relevant example of Wiley's opinion on fraud in the marketplace may be gleaned from the statements he made to the Senate Committee on Manufactures about the differences between straight and blended whisky. On May 8, 1899, Wiley testified before the Committee that whisky was obtained from rye and Indian corn which was fermented to produce a mash and then subjected to distillation. The process of distillation filters ethyl alcohol, water, higher alcohols known as fusel oils, essential oils, and ethers from the mash. As a result of this process, a colorless and unpleasant tasting drink is produced, thus the whisky must be aged to improve its quality and taste for human consumption. The raw whisky was placed in wooden barrels that were charred on the inside, where, in time, the whisky acquired "color" and "tannin." In the barrel the whisky was exposed to oxygen which chemically changed the alcohol by the process of oxidization thereby giving the whisky its characteristic odor and "removes the bad taste and

poisonous alcohols from the mixture."⁵² In this vein, "true whisky, Wiley believed, could be made only by distilling the fermented mash cereals so that the distillate contained not only ethyl alcohol but all the congeneric products that were volatile at the temperatures of distillation."⁵³

The aging process used by the straight whisky or bourbon interests was time consuming and expensive; conversely, the blenders product could be manufactured in several hours. When the blenders produced their whisky they began by distilling ethyl alcohol, which consists of ninety-six percent alcohol and four percent water, and then subsequently added water, colors, and flavors to the ethyl alcohol. The brown or reddish tint that is associated with whisky was attained by adding burnt sugar or caramel to the mixture. The taste of the product was enhanced by the addition of flavoring agents that were quickly and easily produced in the laboratory; for example, amyl alcohol and butyl alcohol could be oxidized to create a flavor associated with whisky in a short period of time. The chemical composition of straight whisky and blended whisky was similar; however, the latter was produced by mixing separate chemical components artificially and the first was made naturally and contained small quantities of various chemicals and oils that, in Wiley's opinion, gave the product better quality and taste. Wiley conceded that both whiskies were "chemically the same," but "while you can imitate nature, you can not substitute the artificial for natural products without impairing the quality of

the product."⁵⁴ Wiley also implied that the artificial blends could be injurious to the health of a consumer but was unable "to state that any single substance employed in blending is injurious to health." In summary, Wiley told the Chairman of the Committee that although he could not prove that rectified whisky was detrimental to the public's health, he objected to the fraud that was committed against the consumer who was getting a whisky that could be rectified in a few hours instead of a naturally aged whisky.⁵⁵ More importantly, this testimony evinces Wiley's negative bias towards the product distilled by the whisky rectifiers as early as 1899, seven years before the passage of the Food and Drugs Act.

Overall, Wiley's testimony at the 1899 - 1900 Committee hearings was judicious and conservative with the exception of the segment relating to the whisky rectifiers. At the hearing Wiley said that "the actual amount of adulteration in the market, however, is very small. For instance, I might go to a store today and buy 100 articles at random, unless they are ground spices or ground coffee - but I mean ordinary staple food - and scarcely five per cent would be adulterated."⁵⁶ Despite the prudent temperament of Wiley's testimony, newspapers in America and abroad, either by accident or intentionally, cited him as stating that ninety percent of the food on the American market was adulterated at one time or another.⁵⁷ Even though the sensationalism that the press began to link with the food and drug problem in America was frequently overwrought, this public

exposure gained America's attention and gave rise to public interest towards the food and drug problem.⁵⁸ Wiley who was inclined to effusive language perceived the public's burgeoning awareness of the adulteration issue when he wrote to a friend that prior to the Committee's hearings the public assumed the investigation was the work of interests "trying to get some job through Congress. Now they realized it was a great movement intended for the public welfare."⁵⁹

In 1902 Wiley established what became infamously known to the American public as Doctor Wiley's "poison squad." Wiley's department was enabled by an Act of Congress to "investigate the character of food preservatives, coloring matters and other substances added to foods, to determine their relation to digestion and health, and to establish the principles which should guide their use."⁶⁰ Wiley's "poison squad" was a group of twelve young men who agreed to eat only the foods provided by Wiley which contained a "normal ration" of a given preservative each day for one year in order for him to study the affects of adulterants on the human body.⁶¹ Wiley wrote in An Autobiography that he "wanted young, robust fellows with maximum resistance to deterious effects of adulterated foods. If they should show signs of injury after they were fed such substances for a period of time, the deduction would naturally follow that children and older persons, more susceptible than they, would be greater sufferers from similar causes."⁶² The affects of the chemicals that were studied in Wiley's laboratory

at the basement of the Bureau of Chemistry included "boric acid and borax, salicylic acid and saliyclates, benzoic acid and benzoates, sulphur dioxide and sulphates, formaldehyde, sulphate of copper, and saltpeter."⁶³ Wiley avowed that during the experiments under no circumstances was the study of the affects of the adulterants continued to the point of endangering the subjects' health.⁶⁴ To ensure the well-being of the men "a surgeon was detailed from another department to look after their general welfare and to advise them if the experimentation was too injurious."⁶⁵

These experiments received a large amount of publicity and even inspired the imagination of popular artists such as Lew Dockstader. On the week of October 4, 1903, in Washington D.C. Lew Dockstader and his minstrel company sang:

"If ever you should visit the Smithsonian Institute,
Look out that Professor Wiley doesn't make you a
recruit.

He's got a lot of fellows there that tell him how they
feel,

They take a batch of poison every time they eat a meal.
For breakfast they get cyanide of liver, coffin shaped,
For dinner, undertaker's pie, all trimmed with crepe;
For supper, arsenic fritters, fried in appetizing
shade,

And late at night they get a prussic acid lemonade.

(chorus)

They may get over it, but they'll never look the same.
That kind of a bill fare would drive most men insane.
Next week he'll give them moth balls, a la Newburg, or
else plain.

They may get over it, but they'll never look the
same."⁶⁶

In the same vein, the press released numerous reports that made flamboyant references to Wiley's work with the poison squad. In The History of A Crime Against The Food Law, Wiley retrospectively admonished one cub reporter in particular named George Rothwell Brown who wrote for the Washington Post and made frequent reports on Wiley's experiments. Brown's extravagant reports on the activities of the "poison squad" became popular and helped to establish his career as a writer - in the 1920s he became the celebrated author of the column "Post-Scripts" in the Washington Post. As a result of such publicity, Wiley became a well-known and controversial public figure. In a more serious context, in spite of the sensation and humor that was associated with the experiments, the information that was published in a series of department bulletins as a consequence of the "poison squad" investigations was considered an authoritative source on food adulteration and human consumption.⁶⁷

As the agitation for a pure food bill in America increased during the early 1900s, Wiley noted years later in An Autobiography that "the elements fighting us represented certain interests" which included "all those who were preserving foods by means of chemicals," "...the manufacturers of articles used in the adulteration of foods and drugs....," "...the so-called rectifiers, that is, those who made fraudulent whiskey out of alcohol, colors and flavors....," "...the patent medicine fraternity of fraud and hokum..." and "...the dishonest misbranders and mislabelers of food and drug products."⁶⁸

The preservative interests such as the large canneries and the manufacturers of foodstuffs were justified in fearing restrictive food and drug legislation which could end the prosperity of their business. Their anxiety was further aggravated when Wiley, as a result of the poison squad experiments, began to shift from the acquiescence he expressed in 1899 towards the use of preservatives in various products with the understanding that their presence was acknowledged on the label to a "firm conclusion that preservatives should be restricted to cases of absolute necessity."⁶⁹ At the same time, some members of the public and the American Medical Association began to fulminate against the practice of selling false nostrums. Wiley pointed out that the quack medicines afflicted upon Americans during this era usually contained habit-forming drugs.⁷⁰ Spurious remedies often consisted of large portions of cocaine, alcohol or opium and fraudulently guaranteed consumers a cure for such illnesses as bronchitis, consumption, cancer, dysentery, diarrhea, goiter, gout, piles and tuberculosis.⁷¹ These fraudulent panaceas often had labels that made glib references to the etiological causes of disease such as a guarantee to kill the microbe that harmed the consumer. In the early 20th century, the public's interest in the microbe was replaced by a fascination with germs and bacteria, thus various nostrums claimed to attack the germs and bacteria feared by the public.⁷² In addition to the protest of the American Medical Association against fraudulent nostrums, magazines such as The Ladies Home Journal also recognized the need to safeguard the public from spurious

medicines, despite the income that publishers received from such advertisements.

The whisky rectifiers constituted another interest group that was opposed to the passage of the Food and Drug Bill. The agitation that was directed against the provisions of the Food and Drugs Act which applied to the whisky industry led to a dispute known as the "Whisky War" that was fought amongst the old Kentucky Colonels who distilled bourbon whisky, lobbyists, lawyers, the blended whisky producers, Congressmen, Senators and Dr. Wiley of the Department of Agriculture. By 1905, Wiley, who had become a key figure in the formulation of the Food and Drug Bill, continued to maintain the bias against rectified whisky which he had first made clear before the Senate Committee on Manufactures in 1900. Wiley's preference for whisky that was aged by the bourbon manufacturers was reflected in his definition of whisky which connoted their product as authentic while denying that blended or rectified whisky was genuine.⁷³ When Wiley formed his definition of whisky for the Food and Drug Bill, he used the Pharmacopoeia of the United States and argued that any article which deviated from the standards outlined in this book such as the whisky distilled by the rectifiers, did not constitute an authentic product.⁷⁴

In 1905, the argument between the rectifiers and the straight whisky interests shifted focus to the purity of the respective whisky products.⁷⁵ The blenders charged that the

aged whisky produced by bourbon distillers was a fusel oil whisky and filled with poisons. "It was their own basic ingredient, neutral grain spirits, they insisted, which had every right in history, in logic and in chemistry, to be called the purest of all."⁷⁶

This argument led the Senator who represented the rectifiers in Washington, Chairman Hough of the National Wholesale Liquor Dealers Association of America, to protest the section of the 1905 Food and Drug Bill that required "mixtures, compounds, combinations, imitations or blends be labeled, branded, or tagged, so as to show the character and constituents thereof," when it appeared before the Senate Committee in January of 1905.⁷⁷

Unfortunately for the history of this bill, when the Senate refused an amendment to drop the compound provision, the rectifiers were compelled to maintain a vigorous opposition to the passage of the Food and Drug Bill. Conversely, the bourbon interests who had lost a large amount of business to the rectifiers began to perceive its passage as a potential advantage to their business. In other words, a law that would force the rectifiers to label their product as an "imitation" whisky while the bourbon interests retained the exclusive legal right to label their product as "genuine" would certainly place the rectifiers at a competitive disadvantage. Needless to say the bourbon industry supported the Food and Drug Bill.

The prolonged dispute with the rectifiers frequently gave rise to criticism against its insistence upon including whisky in the Food and Drug Bill. For example, magazines such as

Collier's questioned the chemist's judgement when he stubbornly continued to link whisky with the pure-food bill. Anderson argues "it is possible that the pure-food bill would have become law in 1905 had it not been for the feud between the bottled-in-bond men and the rectifiers."⁷⁸ One may suggest that there was a logical coherence to Wiley's reluctance to label mixtures containing ethyl alcohol, flavoring and coloring matters as whisky, even when qualified by the term compound.⁷⁹ His inclination to prefer straight whisky was based upon an appreciation for the natural and supposedly genuine manner in which bourbon whisky was produced. Wiley's decision to uphold the inclusion of a whisky provision in the pure-food bill also had a scientific basis. Wiley wrote in An Autobiography that Professor Atwater's pioneer work in nutrition and his experiments with food values, assisted his efforts to institute reforms that would "repress" impure foods.⁸⁰ Atwater developed a system of caloric measurements which determined the digestive and assimilative functions of foods and utilized this method when he published his theory that alcohol was a food with a caloric content, albeit a very "one-sided food."⁸¹ Another factor that influenced Wiley's decision to include whisky in the pure food bill was that he wished to establish the bill upon universal principles that could be applied to all products. Lastly, Anderson suggests that Wiley probably also feared that temperance supporters would be antagonized by a Food and Drug Bill that "legislated against all the evils in food and drink except those pertaining to whisky."⁸²

Through the years between 1900 and 1906, Wiley acquired a reputation for making off-hand, sensational remarks; for example, early in 1906 he reported that "more infants had been killed in the United States in the last fifty years by soothing syrups and impure milk than soldiers on both sides during the civil war." Unfortunately, Wiley could not furnish evidence to substantiate this claim.⁸³ Given the adverse publicity generated by Wiley's work with the poison squad and the increasing flippancy of his public remarks that were irreverently reported by the press, some people began to question whether Wiley possessed the proper countenance that a serious issue such as pure-food demanded.⁸⁴ Moreover, this perspective of Wiley gave credence to the personal and professional attacks made against him by the interests who disagreed with the position he maintained on various issues.

In the early months of 1906 agitation for the passage of a Food and Drug Bill reached unprecedented levels. Debates stalled the passage of the pure food bill as amendments were conceded to various interests in order to gain support for the bill. In one of the amendments which applied to the section of the bill affecting the whisky rectifiers, the subcommittee dropped the specification that required the labels of "compounds, imitations and blends" to show "the character and constituents" of the contents and rewrote the clause to denote blends as a "mixture of like substances."⁸⁵ This change released the rectifiers from

the obligation of stating what ingredients went into their products and in Wiley's opinion undermined the pertinence of a blend stipulation since all the ingredients in rectified whisky could be considered "like substances."⁸⁶ Wiley felt gulled by the revisions that were made to appease the rectifiers and contended that the changes neutralized the proposed meaning of the term blend.⁸⁷ Several other difficulties besides the amendments to ~~sanitary~~ the interests delayed the passage of the Food and Drug Bill. For example, some of the members of the government objected to the Food and Drug Bill because it constituted federal intervention in state jurisdiction, and they envisioned the Food and Drugs Act as a law that would place too much authority in one man. These considerations were annulled when the public's disgust with the conditions of America's food supply reached a high point after Upton Sinclair published The Jungle. President Theodore Roosevelt also read the novel and excitedly ordered an immediate investigation into the meatpacker's operations which was conducted by labor commissioners Charles P. Neill and J.B. Reynolds.⁸⁸ Roosevelt said the report's findings were "hideous" and he wrote the conservative chairman of the House Committee on Agriculture, James Wadsworth, that "the conditions had to be remedied at once."⁸⁹ To expedite the passage of the pure-food bill, which had been delayed by the House after Senate approval, Roosevelt threatened to publish the results of the investigation.⁹⁰ The President's threat moved an unwilling

Congress to take action and on June 30, 1906, the pure Food and Drugs Act became law. The effective date was January 1, 1907.

This chapter has demonstrated that the passage of the Food and Drugs Act was the result of the confluence of such forces as the social need for regulation to protect the public from potentially dangerous products, the discontent evoked by muckraker journalism, Upton Sinclair's novel The Jungle, the persistent work of Dr. Wiley, and the progressive ferment of the era. The evidence examined in this chapter indicated that legislators in Congress were compelled to modify their bias for minimum federal involvement in the affairs of the state and adapt to a variety of novel social conditions that required new political attitudes. The passage of the Food and Drugs Act can be interpreted as the government's burgeoning perception of its responsibility to protect the American public from the social disorder created by rapid change during the process of industrialization. This notion is reinforced when one recalls that federal regulation of the food and drugs industry to the extent prescribed by the 1906 Act was unprecedented. However, despite this seeming modernization, difficulties arose when the authorities sanctioned by the Food and Drugs Act to enforce its provisions executed their duty and in the process obfuscated the Act's original intentions.

Although rectifiers such as the Walker Company were placated by the 1906 amendments to the Food and Drugs Act which prevented

their products from being placed at a competitive disadvantage, and could be reasonably optimistic that the Act would reduce fraud in the marketplace, they were undoubtedly disturbed by the knowledge that Dr. Wiley, whose negative view of the rectifiers' product was well known, would play a central role in the enforcement of the Act. In this regard, the Act stated "that the examination of specimens of foods and drugs shall be made in the Bureau of Chemistry of the Department of Agriculture, or under the direction and supervision of such Bureau ... and if it shall appear from any such examination that any of such specimens is adulterated or misbranded within the meaning of this Act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained."⁹¹ Harvey Wiley wrote later when referring to the events that followed the passage of the Food and Drugs Act, "then the real fight began!"⁹²

Chapter IV

Dr. Wiley vs Canadian Club

Following the institution of the Food and Drugs Act in 1906, various interests apprehensively awaited for the day when the interpretation and practical enforcement of the legislation would take place. Undoubtedly the legislators that formulated the law envisaged the provisions and the terms promulgated in the Act as comprehensive and free of interpretative ambiguities; however, the administration's efforts to enforce the law soon nullified such hopes. The following chapter discusses the development of a bureaucracy to administer the food law. Harvey Wiley's role in the Department of Agriculture and the whisky controversy will then be contrasted with the Walker Company's perception of his interpretation of the law and its negative effects upon the export of Canadian Club Whisky. Such a discussion will illustrate the company's viewpoint in relation to the whisky controversy. These divergent opinions will be analyzed from the perspectives furnished by: Harvey Wiley's books An Autobiography and The History Of A Crime Against The Food Law in which Wiley introspectively describes the events that followed the passage of the food law, and the Walker Company's pamphlet A Plot Against The People which defends their product from Harvey Wiley's interpretation. A study of these materials will demonstrate the fundamental problems that occurred as officials attempted to

enforce the pure food law and furnish insights into the basic legal, economic, political, and administrative difficulties which impeded the pure food regulatory decision.

After the Food and Drugs Act was passed by Congress, President Roosevelt referred to the statute with pride and Harvey Wiley conveyed the feeling that it passed his most optimistic hopes.¹ In An Autobiography Wiley wrote that a majority of the food processors and manufacturers in America complied with the regulations pronounced in the food law.² He surmised these interests realized that when they discontinued practices such as adding harmful adulterants to foods and fraudulent labelling, their business could continue to prosper and in some cases even improved.³ Wiley also gives the impression that generally the food law was welcomed and accepted by the food and drug industries, except for certain interests who wished to palliate clauses of the law which threatened their business. When he refers to the interests that worked to alter the provisions of the law which were inimical to their prosperity, a sense of chagrin and bitterness pervades his sentiments. In this regard he wrote that "having lost the fight in Congress a number of adulterators and misbranders sought to destroy the law and prevent its enforcement."⁴ Included amongst this group of resisters whom Wiley condescendingly named "die hards" were the manufacturers that used sulphur dioxide for bleaching and the preservation of their products, the producers of saccharin, various drug producers, the patent medicine industry and the

whisky rectifiers.⁵ Wiley also noted that "naturally when the battle array was formed the first point of attack was upon me."⁶ There was no doubt in Wiley's mind as to why these interests opposed his role in the administration of the food law. "If the law were enforced according to my interpretation" Wiley admitted "it would destroy their business."⁷

An examination and review of the development of the bureaucratic authority that was created to administer and enforce the pure food law is instructive. The food law specified that offenders who violated adulteration standards or misbranded products were to be prosecuted in federal district courts and their contraband products seized on the grounds of libel for condemnation. The regulations to guide such prosecutions were formulated jointly by the Secretary of the Treasury, the Secretary of Commerce and Labor and the Secretary of Agriculture. The Department of Agriculture was responsible for the administration of the food law and the examination of products suspected of containing prohibited adulterants or of being misbranded within the definition of the law. These examinations were conducted at the Bureau of Chemistry. Consequently, when cases of adulteration or misbranding were confronted, the Secretary of Agriculture was obligated to notify the offending party that a sample of their product had been obtained and court action would soon follow. The person or business accused of selling misbranded or adulterated goods was then given a hearing and the Secretary of Agriculture was expected to furnish the

District Attorney with evidence.⁸ "The omission from the Food and Drugs Act of the section on standards with its provision for a board of experts to advise on questions of wholesomeness, combined with the elimination of the standards section from the appropriation Act, left the administrators of the law with no instructions on how to proceed in making the initial decisions as to what constituted adulterations."⁹ Anderson points out that without specified procedures to determine what constituted adulteration or misbranding; confusion and indecision were prevalent when powerful interests began to challenge the food law.¹⁰ Thus the food law was vulnerable to critics who either felt that the specifications were biased and unfair or unduly sensitive to business interests.¹¹ To compensate for the absence of such procedures the Department of Agriculture published in October of 1906 a group of regulations that outlined "procedures for collecting samples and conducting hearings, specified methods of chemical analysis, and amplified the sections of the act that dealt with exports, imports, adulteration and misbranding."¹² Wiley played an integral part in the formulation of these regulations and hoped they would facilitate the "rigid" enforcement of the act "but at the same time cause as little annoyance as possible to manufacturer, dealer and consumer."¹³

With the increase of responsibilities and functions that were conferred upon the Department of Agriculture as a consequence of the food law, changes began to occur in the

structure and administration of the department. In 1907 a Board of Food and Drug Inspection was created by the Secretary of Agriculture, James Wilson, to advise and help form policies for the Department. Dr. Wiley was appointed chairman of this board. Other members of the board included Professor E.L. Dunlap of the University of Michigan and the department lawyer George P. McCabe. Wiley viewed the creation of the board as a blatant usurpation of his authority and maintained that "there was nothing in the food law which authorized the appointment of a Board of Food and Drug Inspection."¹⁴ To Wiley the board represented the beginning of the decline of his influence upon the administration and policies of the department and an enervation of the food law.¹⁵ He also traced his loss of esteem to the department solicitor, George McCabe, who ingratiated himself with Secretary Wilson and gained his support against Wiley in the frequent disputes between the two men. Wiley's resentment with the board seems to be based upon his perception of the other members as rivals to his authority. There is also the possibility that he was angered by the prominent role these men had attained in the administration of the food law since neither was as experienced with adulteration and misbranding problems as Wiley or had participated in the long fight to get the bill passed. Of course Wiley's characterization of the board ignores the practical difficulties that were involved with the enforcement of the food law. Anderson suggests that Wilson's motivation to create this board was based upon the fundamental necessity of an increase in personnel and machinery

to administer the law. The Secretary also realized that Wiley's work in the bureau did not leave him enough time to supervise all the regulatory work in the department. Moreover, "Wilson's decision was a reflection of a growing breach between the two men" of a personal nature, and a reserve he began to feel towards the soundness of Wiley's scientific judgement.¹⁶ One could also speculate that the board was designed to prevent one man's interpretation of the food law from bearing an overwhelming preponderance upon departmental decisions. In any case, the Board of Food and Drug Inspection was made up of members who were antagonistically disposed towards each other; for example, when George McCabe was asked during a conference to comment upon Dr. Wiley's position on the whisky question he snapped: "Dr. Wiley's definition of whisky is absurd."¹⁷ The animosity amongst the members of the board led to factionalism that affected the enforcement and interpretation of the food law and, ultimately, weakened the effectiveness of the law.

In January of 1908 President Roosevelt appointed a group of scientists named the Remsen Board, to function as a consulting agency to the Department of Agriculture.¹⁸ Wiley embarrassingly described the origins of the Remsen Board in The History Of A Crime Against The Food Law. At a conference with the President, Wiley interjected during a conversation about the use of saccharin in sweet corn that a consumer who thought he was eating sugar sweetened corn was mistaken, and that "he was eating a coal tar product totally devoid of food value and extremely

injurious to health." The President then told Wiley that his personal physician administered saccharin to him everyday as a sugar substitute and that "anyone who says saccharin is injurious to health is an idiot."¹⁹ The next day the Remsen Board, also know as the Referee Board of Scientific Experts, was established. Apparently after the previously described incident, Roosevelt, like Secretary Wilson, began to lose confidence in Wiley's scientific opinion and he created the Remsen Board to provide the department with an alternate counsel on food and drug matters.²⁰ Moreover, "the idea of appealing to the experts was characteristic of T.R.'s approach to problems of administration."²¹ Wiley wrote that "whatever the attitude of this group of scientists may have been at the time of their appointment, it changed and they unconsciously became protagonists of every interest which I had opposed."²² According to Wiley, both the Remsen and the Food and Drug Inspection Boards violated the methods of inspection sanctioned by the food law and seriously diminished its effectiveness. "If Theodore Roosevelt thought that the appointment of the Referee Board would put an end to the recurrent outbreaks of controversy, he was destined to early disillusion."²³

The factionalism that was engendered in the department by the creation of such adjunct agencies frequently undermined the administration of the pure food law. An examination of the controversy that enveloped the whisky industry and the administration of the food law after 1906 is a case in point.

Wiley charged that immediately after the food bill was passed "activities were begun by the fake whisky interest to nullify its requirements."²⁴ The rectifiers efforts focused upon the Department of Agriculture which had been empowered by the law to make decisions regarding food adulteration and misbranding. In 1906 a series of decisions were published by the department in response to the enquiries of various interests about the interpretation of the food law. The first to affect the rectifiers was Food Inspection Decision 45. The 1906 Food Law stated that the rectifiers were required to label their product either as a compound, imitation or blended whisky; however, the language of the statute did not indicate how such standards were to be determined.²⁵ F.I.D. 45 was a response to an inquiry concerning the legality of mixing a bourbon whisky with a neutral spirit and labelling the resultant product as a blend. The department ruled that "the mixture of such an imitation with a genuine article can not be regarded as a mixture of like substances within the letter and intent of the law."²⁶ "Blending or rectifying firms protested that neutral spirits was no more than rectified, purified and refined whisky and when colored and flavored always had been known as whisky."²⁷ F.I.D. 45 failed to satisfy any of the parties involved in the dispute and eventually the issue was taken to the courts in the hope of establishing a comprehensive ruling on the definition of whisky.

Discontent with F.I.D. 45 began in the department early in

1907 when James Wilson, whose signature was placed at the bottom of F.I.D. 45, expressed dissatisfaction with the department's interpretation of whisky.²⁸ Under the influence of McCabe he began to move towards a position more favorable to the rectifiers. McCabe asserted that "whisky is any alcoholic beverage made from grain, properly colored and flavored, according to the prevailing custom of the trade."²⁹ When the Secretary and Solicitor expressed this view publicly, Wiley arranged a meeting with Roosevelt to demonstrate the error of their opinions. For his meeting with the President, Wiley had an impromptu laboratory prepared which contained all of the equipment necessary to produce two year old whisky, rum and brandy in several minutes, and for two hours he lectured about the meaning of whisky and conducted experiments before the President.³⁰ After the meeting Roosevelt said to Wiley that "I have heard nothing but whisky for the last three weeks and you are the first person who has ever given me a single idea I can comprehend."³¹ Wiley was asked by the President to present documentation that would verify his understanding of whisky to Attorney General Bonaparte who could then advise the government on the whisky question. Bonaparte read the material and corroborated Wiley's arguments which led Roosevelt to order the Commissioner of Revenue and Secretary Wilson to accept a definition of whisky based upon Wiley's opinion.³² Shortly thereafter F.I.D. 65 was published.

On April 12, 1907, F.I.D. 65 was issued by the Department of

Agriculture and declared that "straight whisky" mixed with ethyl alcohol should be marked a "compound" if there were enough straight whisky to make it genuinely a mixture, but neutral spirits with color and flavor was to be labeled an imitation.³³ Although Roosevelt supported Bonaparte on the Wiley interpretation of whisky, he had also begun to succumb to the pressure exerted by the rectifiers' lobbyists in Washington during the winter months of 1907. In response to this pressure the President appointed a whisky commission, which included James Wilson, Dr. Dunlap and John G. Capers of the Internal Revenue and Treasury Department. After deliberations the commission concluded that they were inclined to call whisky made from neutral spirits, genuine whisky. The whisky commission's interpretation of whisky, Wiley wrote, created "a curious environment" in the Bureau of Chemistry. James Wilson, Dunlap, McCabe and the Chief of the Bureau of Internal Revenue favored a definition of whisky that included blends while the President, Bonaparte and Wiley argued that only straight whisky warranted the term without qualification.³⁴ Although the President temporarily had assented to a definition of whisky that was not congenial to their interests, the rectifiers retained powerful support in the administration.

Despite the F.I.D. 45 and 65 rulings the rectifiers continued to protest the terms of the law which harmed their business. To express their dissatisfaction, the rectifiers brought various cases before the courts seeking decisions to void

F.I.D. 45 and 65.³⁵ The first of such cases was argued before the federal district court in Cincinnati - the center of the rectifying industry. The presiding Judge, the Honorable A.C. Thompson, considered the rectifiers' and Bonaparte's arguments for several weeks and then ruled in favor of F.I.D. 45 and 65. Discouraged but not defeated various rectifiers appealed to other federal courts in localities such as Springfield, Illinois; Covington, Kentucky; Indianapolis, Indiana; Buffalo, New York; Baltimore, Maryland; and San Francisco, California.³⁶ In each of these cases the precedent set by Judge Thompson was sustained.

Wiley and Attorney General Bonaparte also wished to have cases prosecuted in the federal courts to test the accuracy of their interpretation; however, this was difficult since in order to initiate the seizure of goods and criminal prosecution, the Bureau of Chemistry was obligated to acquire the consent of a majority of the members on the Board of Food and Drug Inspection.³⁷ Several of the board members hesitated to support such action until Wilson ordered them to assist Wiley in his efforts to prosecute violators. The department made a number of seizures of various rectifier's products for the purpose of litigation in the two years following the Bonaparte decision. During these years the courts ruled in favor of Bonaparte's F.I.D. 65 in every case. In spite of the court's decisiveness, the appointees to Roosevelt's commission continued to support an interpretation of whisky favorable to the rectifiers. As late as

February 19, 1909, Professor Dunlap submitted a commission report recommending the administration relieve rectified products that contained neutral grain spirits from the obligation of bearing the repugnant label "imitation" whisky. They preferred to label such products as neutral, redistilled or rectified whisky.

The report was repudiated by Roosevelt who according to Dunlap was compelled to do so after Bonaparte threatened to resign if his decision was changed.³⁸ Perhaps the liberality of the commission's report may be attributed to a sense of disgust with the department's aggressive seizure of the rectifiers' products which did not end until June 12, 1908 after an inordinately large shipment of Canadian Club whisky was confiscated by the food and drug administration. Wiley felt that the suspension of whisky seizures was probably based upon a misplaced sympathy for the industry; for example, in his book he cited Senator Armstrong's plea at Duff's Malt Whisky hearing who said "the firm had been in business for fifty years, had spent millions of dollars in advertising, had built up a trade, and that it ought not to be interfered with."³⁹ Notwithstanding these protests the rectifiers were forced to await a change in the administration before they could redress their grievances with the hope of gaining a more favorable interpretation of the definition of whisky.

Much of the previous discussion has focused upon the administrative events following the passage of the food law and

the problem of defining whisky from the department's and Wiley's perspective. In contrast, it would be of interest to examine the views of a producer of rectified whisky, Hiram Walker and Sons, in relation to the same events. To do so an examination of the Walker Company's pamphlet A Plot Against The People, will furnish detailed information about their interpretation of the whisky clause of the food law and outrage with the events that followed its passage.

Initially, it would be worthwhile to briefly outline the Walker Company's method of producing whisky in order to understand more fully the company's grievances with Wiley's interpretation. The whisky manufactured by the company was distilled in a manner to ensure uniform flavor with a minimum amount of fusel oil. This uniformity in flavor was achieved by blending a neutral grain spirit that contained a minute proportion of fusel oil with a grain distillate that contained fusel oil to achieve the desired taste.⁴⁰ The mixture was reduced to an acceptable strength with the addition of water and aged in oak casks for a period of five years. This method of production indicates that the company made their whisky in a costly fashion with the intention of creating a quality product. In Wiley's interpretation of the law such a blend did not constitute an authentic whisky although this contradicted a report he made erstwhile about Canadian Club at the Columbian Exposition in 1893. At the fair, Wiley considered Canadian Club "pure and fully up to the examination required and, by authority

of Congress, it received an award for fine aroma, very pleasant taste, through maturity, purity and absence of an alien matter."⁴¹ Evidently Wiley forgot about this statement when he formulated the inflexible definition of whisky he purported to in the early 1900s. Moreover, Wiley's definition of whisky undoubtedly seemed unfair and arbitrary to the Walker Company given the expense and care they used to produce their whisky.

The pamphlet states that prior to November of 1906, company officials pleasantly anticipated the passage of the food law until they became aware of Wiley's proposed definition of whisky.⁴² Several of the company's directors travelled to Washington to investigate the problem. In Wiley's absence an interview took place between Dr. Bigelow, one of Wiley's subordinates, and the company's Detroit lawyer Alfred Lucking. The pamphlet states that "we argued the disputed points from the practical standpoint, based upon our life-long and world-wide knowledge of the whisky trade, and urged that articles and reputations which had never before been questioned anywhere in the world, should not be hastily impeached."⁴³ The company's arguments had little effect upon Wiley who continued to regard Walker's as just another of the "adulterators and mislabelers" who sought to destroy the act or prevent its enforcement.

In April of 1908 without a hearing, trial or forewarning from the officials administering the food law, Canadian Club whisky was "peremptorily" refused admission into the United

States.⁴⁴ To prevent the total collapse of the company's U.S. business they appealed to the court and received a temporary injunction that permitted the company to continue its regular trade and fill "normal orders." As a result of this appeal the company attained the trial they sought to "decide whether we were offending against United States Laws."⁴⁵ To prosecute offenders before the courts a seizure of Canadian Club whisky was necessary in accordance with the formal procedures sanctioned by the food law. The Department of Agriculture's zealous execution of this task led to seizures in such U.S. cities as New York, Newark, Philadelphia, Pittsburgh, Jacksonville, Milwaukee, St. Paul and Minneapolis which totaled 493 cases. "In Detroit 5,405 cases were seized in one lot; making in all 5,898 cases," on which the pamphlet charges, "we had paid the United States Customs close to \$31,000 in duties."⁴⁶ The company reasoned that the confiscation of one case of whisky in Washington seemed justifiable and convenient for the officials adjudicating the dispute, but the large-scale seizure that occurred seemed vindictive and inexcusable.⁴⁷ Realizing that such an enormous seizure in Detroit would be considered unfavorably by the courts, 5,300 cases taken in Detroit were released! The company felt that the dispute should have ended at this juncture, however, the Department of Agriculture continued to maintain that Canadian Club could not bear the title whisky without qualification.⁴⁸ Following this comment the company asserted in clear and personal prose their fundamental objections to the food law:

"Firstly, 'Canadian Club' was never what is called 'Blended Whisky' anywhere in the world: Therefore, although the name is, in itself, irreproachable, for many of the very finest whiskies are blends, we naturally decline to misbrand our product. Secondly, we were not willing that anyone should be able to insinuate that a pure food law had compelled us to change our label. And there were those who would insinuate, we had the best reason for believing, from the fact that certain unknown parties had flooded the country with anonymous notices to dealers that they incurred great danger of prosecution if they carried our whisky in stock."⁴⁹

The chapter concludes by attributing the company's 'innocent suffering' and source of bane solely to Dr. Wiley's "instability of mind and autocratic methods."

Several interesting arguments relating to the company's legal interpretation of the food law are worth considering in summary of the company's stance during the whisky dispute. Basically the company articulated a strong objection to the requirement that bound them to affix the term "blend" to the label of their Canadian Club whisky.⁵⁰ As previously discussed Canadian Club whisky was produced by blending two distillates derived from grain and then aged - a process which created a unique, atypical blend of whisky that differed from standard blending methods. The contention centered around whether such a product should be labelled as a "blend of whiskies" in compliance with the Department of Agriculture's interpretation of the food law or whether Canadian Club whisky constituted a distinct name as defined by section 8 of the food

law and therefore exempt from the requirement to place the words "a blend of whisky" below their bottles' title.⁵¹ In this connection, section 8 of the statute reads that "in the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced."⁵² On the basis of this clause the Walker Company argued that the Canadian Club label contained its own distinctive name, and they were not required to place the term blend on the label of their product. This argument is strengthened when one thinks of the considerable efforts the company utilized in the past to protect the integrity of their product.

The discussion of the Walker Company's problems with the Department of Agriculture's interpretation of the pure food law shows that the mismanagement of the regulatory provisions of the food law could invoke a great deal of frustration for a private interest. The company was unquestionably justified in feeling that Wiley's interpretation of the law arbitrarily discriminated against a business that was carefully established and defended in the U.S. for many years. Lastly, Wiley's view of whisky ignored the intrinsic merits of the manner in which Canadian Club whisky was produced.

Much of the evidence examined in the chapter illustrates that problems followed immediately after the passage of the food law which affected such variants as the establishment of an efficient bureaucracy to administer the act, the interpretative meaning of the law and certain business interests.⁵³ According to Dr. Wiley's explanation of the events which followed the passage of the Act, the internal incendiarism within the department was based upon a desire to usurp his authority and strengthen the cause of the interests he opposed. Conversely, Anderson points out that the President and Secretary of Agriculture began to lose confidence in Wiley's scientific judgement after 1906, and deemed the creation of the adjunct agencies discussed in this chapter as crucial to the sound and just administration of the food law. Evidence shows that the most bitter fights between business and the administration were connected with the whisky discord engendered by Wiley's interpretation. This dispute divided the whisky industry into hostile factions, irreparably divided the staff in the Department of Agriculture, confused the President of the United States and undermined the credibility of the food law. From the perspective of the Walker Company the abstract position that the department officially maintained on the whisky question seemed biased and insensitive to their business.

In a larger context, the entire rectified whisky industry in the U.S., which constituted a multi-million dollar industry, was confounded by the administration's uncompromising position on the

whisky question which discriminated against a method of producing whisky that had existed for centuries. To Wiley, the leading theoretician in the department, the economic, political and administrative aspects of pure food law enforcement were secondary to a moral understanding of pure food.⁵⁴ One can view Wiley as a 19th century man who was antiquated by 20th century problems. In this vein, when questioned before a Congressional hearing in 1906, Wiley told Hough "you can so imitate a whisky that even the elect would be deceived." Mr. Hough then asked "who are the elect?" Dr. Wiley responded "Well, I am one of them." Mr. Hough then suggested that he "...name the other." Dr. Wiley said: "President Roosevelt."⁵⁵

Chapter V

Taft, Regulation and the Food and Drugs Act in Relation to Progressive Reform

In 1909 William Howard Taft succeeded Theodore Roosevelt as leader of the Republican Party and President of the United States. After swearing the oath of office one of his first decisions was to order a rehearing of the whisky controversy. In the following, I shall briefly discuss the events that culminated in the "Taft Decision" of 1909 which effectively ended the whisky controversy. I then wish to compare the conclusions reached as a result of this research with a hypothesis formulated by Robert Wiebe in his book entitled The Search For Order, 1877-1920. The purpose of this critical assessment of Wiebe's theory is to show that in the case of the pure food law, his concept of progressive reform requires serious qualification. Such an undertaking will facilitate a more realistic appraisal of the role of regulation and bureaucracy in the early 20th century, and aid our understanding of the pure food law in relation to the progressive reform movement.

Almost immediately after Taft entered the White House, the whisky rectifiers asked the President to reconsider the definition of whisky adhered to by the previous administration.¹ In compliance with the rectifier's appeals,

President Taft commissioned Solicitor General Lloyd Bowers' to direct hearings in which the points of contention between the disparate interests would be heard. The President wished to elicit Bowers' opinion on the following matters:

1. What was the article called "whisky" as known (1) to the manufacturers, (2) to the trade, and (3) to the consumers at and prior to the date of the passage of the pure food law?
2. What did the term "whisky" include?
3. Was there included in the term whisky any maximum or minimum of congeneric substances as necessary in order that distilled spirits should be properly designated whisky?
4. Was there any abuse in the application of the term "whisky" to articles not properly falling within the definition of that term at and prior to the passage of the pure food law, which it was the intention of Congress to correct by the provisions of the act?
5. Is the term "whisky" as a drug applicable to a different product than whisky as a beverage? If so, in what particulars?²

These questions are astonishingly reminiscent of the queries that obscured debates about whisky before the pure food law was passed.

During the months of April and May Attorney General Bowers' heard testimony from the straight whisky producers, the whisky rectifiers, Harvey Wiley and other concerned parties on topics that ranged from the history of the whisky industry to the development of the technology used to manufacture it. Wiley participated in the hearings by giving testimony and questioning

witnesses. His motivation to take a leading role in the proceedings was based upon a firm conviction that much more than just whisky was at stake. His legacy as well as "the whole subject of imitation and adulteration of food stuffs was involved."³ The finished report was entitled "Proceedings Before And By Direction Of The President Concerning The Meaning Of Whisky", and the length and depth of its contents are reflected by the voluminous number of pages in the official version of the hearings which totaled 1,200 pages. Bowers concluded that "neutral spirits colored and flavored" were "not entitled to be called whisky, but he conceded that a mixture of neutral spirits and straight whisky might bear the coveted label provided the proportion of neutral spirits was not so high that it robbed the mixture of the by-products that gave whisky its character."⁴ This recommendation constituted a departure from the definition of whisky sanctioned by the law during the Roosevelt administration but it provided no relief for rectifiers such as Hiram Walker and Sons. As for Harvey Wiley, although he disapproved of the sections of Bowers' report on mixtures, he was generally satisfied with most of the report's conclusions.⁵

Public reaction to the report was less favorable. Wiley wrote that "perhaps no public decision ever issued received such unanimous condemnation as Bowers' report."⁶ Since none of the disputants were satisfied with the report's conclusions, President Taft decided to conduct a hearing to resolve the issue at the executive mansion on June 28, 1909. At this inquiry Taft

heard the arguments presented by the rectifiers and the straight whisky interests, and then thoughtfully ruminated upon the issue for several months.

The President announced his resolution to the controversy in December of 1909 in a paper known as the "Taft Decision". The paper attests to the prevalence of "... frauds upon the public by false labels;" but he concluded "these frauds did not consist in palming one kind of whisky as another and better kind of whisky."⁷ Taft then cautioned that "the way to remedy this evil is not to attempt to change the meaning and scope of the term 'whisky' accorded to it for one hundred years, and narrow it to include only straight whisky; and there is nothing in the pure food law that warrants the inference of such an intention by Congress."⁸ However, he maintained that distillers should abide by labelling requirements that "indicate just what kind of whisky the package contains," and that varieties of whisky like straight, rectified, redistilled or neutral spirits should be labelled as such. Taft entrusted the Secretary of the Treasury, the Secretary of Agriculture and the Secretary of Commerce and Labor with the task of instituting his decision.

Taft's revision of the definition of whisky overruled the previous administration's interpretation and some contended that he had interfered with the inviolability of the courts.⁹ In this connection, Wiley reported a verbal exchange he had with Justice Harlan of the Kentucky Supreme Court at a party on the

evening of the Taft Decision. Justice Harlan asked Wiley, "What is this I hear about holding Supreme Court in the White House?" If true, he observed, "things are coming to a pretty pass in this country."¹⁰

Although Taft had made his decision concerning whisky quite clear, the three Secretaries whom he conferred with the authority to enact his will deviated from his explicit intentions when they formulated F.I.D. 113. Evidently the rectifiers' lobbyists had convinced the Secretaries that Taft's labelling requirements were fundamentally incongruous with the essential point of his argument which verified the right of grain neutral spirits to the term whisky.¹¹ Consequently, when F.I.D. 113 was published in February of 1910, neutral spirits derived from grain were permitted to use the term whisky without qualification.¹² Wiley was incensed over the alteration of Taft's principles in F.I.D. 113. "Under the very nose of the President," he charged, "the rectifiers so controlled the action of the three Secretaries that neither one of these phrases was incorporated into the necessary labelling of whiskies made from neutral spirits."¹³ In summary, Wiley avowed that not only were numerous Decisions of the courts overruled, but the specific directions of the President of the United States were disregarded.¹⁴ More importantly, in just a few short years after the 1906 definition of whisky was sanctioned by the law, the interpretation of what constituted whisky was reversed to the meaning generally accepted by the public and industry prior to the passage of the food law.

If Wiley seemed bewildered by the turn of events the rectifiers were jubilant. After the Taft Decision was instituted, the Walker Company published the following statement in various newspapers entitled "The Pure Food Law - A Magnificent Victory":

"Never was such a law more needed than in this country, nor more welcome than to us, who have suffered enormously from the fraudulent imitation of popular labels. This law, some years ago, would have saved us hundreds of thousands of dollars. Yet to our amazement, a law designed to protect honest manufacturers no less than the public, was immediately made the pretext for an attack upon our world-wide and previously unimpeached reputation...We have not as the public has been led to believe, obstructed the Pure Food Law nor opposed the views of the government. We have simply resisted a mere Bureau's usurpation of authority, and its novel and preposterous theories, submission to which would have driven us out of the American Market."¹⁵

The analysis of the "Taft Decision" and the previous chapters investigation of the whisky industry and the food law ends this study's examination of the forces and events that influenced the administration of the food law, and furnishes a convenient starting point from which to consider the wider implications of this research. The evidence discussed in this study in relation to the role of bureaucracy and regulation in the progressive era will now be examined according to the interpretation of Robert Wiebe in his book, The Search For Order, 1877-1920.

It is unquestionable that the social movement toward increasing government regulation on a national scale, which Wiebe describes in his study, represents a fundamental watershed in the history of American Government. In fact, "one of the most significant phenomena in the evolution of American political institutions in the last 100 years has been the growth of public regulation of economic life."¹⁶ In a previous chapter the origins of the necessity for such change were directly linked to the rapid industrialization and urbanization of American society.

With the advent of these forces traditional laissez-faire ideology, which limited government's functions to the protection of life and the maintenance of certain essential services, failed to sustain social stability. The profound impact of the failure of the self-regulating economy to ensure social order led some reformers to believe that government participation in the economic and social affairs of the nation was essential even if it seemed to violate the sanctity of private ownership. Many of these reformers or progressives "had an abiding faith in regulation, expertness, and the capacity of American government to make rational decisions provided experts in the administrative agencies could remain free from partisan political consideration."¹⁷ In this vein, Wiebe interprets the progressive era as the triumph of new values such as continuity, regularity, functionality, rationality, administration and management in order to cope with twentieth century problems.

Wiebe traces the origins of his theory to the social

upheavals that occurred in post reconstruction America and the inability of the nation to deal with its problems. Such difficulties created a "general splintering process" in American culture. As a result of this fragmentary evolution in American life, a fundamental shift occurred in American values from those of the small town in the 1880s to those of a new bureaucratic-minded middle class. Wiebe maintains that the ideology embraced by the new middle class transcended that of social theorists such as the Social Gospellers, Christian Socialists, Romantic Marxists, Darwinists and Henry George's single taxers. "The ideas that filtered through and eventually took the fort were bureaucratic ones, peculiarly suited to the fluidity and impersonality of an urban-industrial world."¹⁸ Ostensibly, society was made up of carelessly interacting individuals; however, it always contained "that irreducible element of contingency and predictability."¹⁹ The new bureaucratic orientation of the country emphasized frugality, promptness, foresight and efficiency which invigorated the towns of America and enforced traditional values.²⁰ "Experts in administration supported by a variety of professionals sought solutions to the city's problems through proper procedures and continuous enforcement, rather than by simple self-fulfilling rules."²¹

Wiebe correctly points out that the greatest weakness in the progressive's bureaucratic theory lay in their failure to offer careful definitions of proposed solutions instead of general

tendencies.²² Despite this ambivalence, the theory assumed that problems would be resolved by the presence of a scientifically trained, frictionless bureaucracy. They optimistically presupposed that the process of becoming knowledgeable in scientific method "eradicat[ed] petty passions and narrow ambitions, just as it removed faults in reasoning."²³ This training created the "perfect bureaucrat" who instinctively reacted in the appropriate manner to a given situation.²⁴ Wiebe explains that the latitude such a bureaucrat "enjoyed in administration existed only because no one could predict the course of a fluid society and the expert would require a freedom sufficient to follow it."²⁵ Nevertheless, Wiebe writes that "the theory purported to describe government by science, not by men" and then concludes "this revolutionary approach to government, incomplete as it was, eventually dominated the politics of the early twentieth century."²⁶

Probably every student of bureaucracy at one time or another has read the precepts of bureaucracy formulated by the German sociologist Max Weber. In an essay entitled "The Ideal Type of Bureaucracy", Weber outlines the fundamental components of modern bureaucracy:

1. There is the principle of fixed and official jurisdictional areas, which are generally ordered by rules, that is, by laws or administrative regulations.
1. The regular activities required for the purposes of the bureaucratically governed structure are distributed in a fixed way as official duties.

2. The authority to give the commands required for the discharge of these duties is distributed in a stable way and is strictly delimited by rules concerning the coercive means physical, sacredotal, or otherwise, which may be placed at the disposal of officials.
3. Methodical provision is made for the regular and continuous fulfillment of these duties and for the execution of the corresponding rights; only persons who have generally regulated qualifications to serve are employed.²⁷

This construct of bureaucracy can be used as an analytical tool to assess Wiebe's theory of bureaucracy and the pure food law. Weber's definition of bureaucracy - also provides helpful information about bureaucracy, regulation and the decision-making process since Wiebe failed to furnish specific information regarding the progressive's predilection for "efficiency", "stability", and "rationality". When one compares Weber's concept of the prerequisites for modern bureaucracy with the events that took place during the administration of the food law, Wiebe's argument concerning the triumph of the bureaucratic mentality seems to be based on thin historical evidence.

Weber begins his definition of bureaucracy by emphasizing the principle of "fixed and official jurisdictional areas" which are enacted by law or administrative regulations. This precept is difficult to associate with the pure food law. Although the administration of the food law was delineated by statute, it was not a comprehensive delegation of authority. As a result of this lack of clarity, conflicting administrative agencies were

created, appeals were made to federal courts to overrule departmental decisions, and in 1910 the President intervened and reversed the decisions of the previous administration and several federal courts. All of these developments blur the concept of fixed jurisdictional authority when one attempts to apply such a maxim to the administration of the food law.

The second characteristic of Weber's construct is related to the stable discharge of commands and bureaucratic decisions. In this instance the food law again falls short of the ideal; for example, a vision of confusion is invoked when one remembers that two Presidents interfered with the affairs of the department, conflicting boards postulated contrary decisions and opinions, and personal arguments, protests, and preferences affected the interpretation and enforcement of the food law.

Concerning the third point, this research shows that the provisions of the food law were not methodically fulfilled by men who endeavored to do so in a consistent manner. Perhaps the administration of the food law corresponds with Weber's construct in a small way - the personnel seem to have been reasonably qualified for their positions, but these experts failed to remain free from personal biases and partisan political considerations.

On the basis of these conclusions one can argue that progressive regulation does not correspond, in the case of the pure food law, with the idea of rational bureaucracy; in fact, it

is a paragon of inefficiency. As for the private interests that were adversely affected by the law, their frustration with the mismanagement of the act justified their reluctance to see such well meaning legislation instituted in the future.²⁸ In this connection, the food law was a bureaucratic failure if the standards one uses to measure the success of regulation are predicated upon a consistent and cogent decision-making process which, ultimately, should defend honest business and the public. Although Weber's construct represents "The Ideal Type of Bureaucracy" and ideas are inevitably transformed or undermined with practical application, the administration of the food law seems almost diametrically opposite to the presuppositions underlying the theory of bureaucracy formulated by Weber and generally accepted by the social sciences. In summary, the evaluation of the food law from the viewpoint furnished by Weber's construct indicates that the pure food law cannot be considered as a triumph of bureaucracy and that Wiebe's theory about its development requires some qualification. Moreover, conventional wisdom in history has traditionally considered the pure food law as one of the more significant results of progressive reform. I submit, this study may be thought of as a heuristic work in that one may question the opinion of traditional history in relation to the effectiveness of such progressive reform as the pure food law.

An assessment of progressive reform that is in line with the conclusions reached from this study is tersely stated by Marver

H. Bernstein in his book Regulating Business by Independent Commission. He writes that regulation during this era was accomplished "step by step, whether in state or nation, it has represented a series of empirical adjustments to felt abuses."²⁹ Thus, progressive regulation was initiated by various groups and individuals who perceived the necessity of action to remedy social injustice and disorder, rather than by middle class citizens imbued with a positive plan embodied in a general philosophy of government.³⁰ To a large extent, regulation simply emerged as a result of the localities' and states' inability to effectively regulate social and economic conditions. In addition, the government's intervention into the economic and social affairs of the nation was characteristic of a world wide trend at the turn of the century; for example, the phenomenon of the necessity of progressive type reform in a remote and Eastern country such as India is mentioned by Erik Erikson in his biography of Ghandi.³¹ "Governmental control of economic affairs in one form or another has been a universal trend in modern times."³² In America at the early 20th century, the problem was that although reformers managed to institute legislation at a federal level of government, they were unable to translate their changes into effective regulatory policy and administration; therefore, their efforts seem incomplete. This interpretation of the early history of the regulatory movement is substantiated by the events that surrounded the whisky controversy.

Throughout the whisky dispute of the pure food law the debate unremittingly centered upon what constituted genuine and fraudulent whisky. The issue was frequently reduced to moral terms and each side viewed the other as venal and corrupt. Basically, the definition of whisky that was sanctioned in 1906 was designed to end fraudulent practices in the whisky trade and restore decency to the industry. Reformers like Wiley seemed to almost naively believe that as soon as problems were identified, and the perceived abuses eradicated, social harmony between private and public interests would return. Unfortunately, the attempted application of this treatment to the whisky trade was ruinous for the industry, and the federal government incurred an unwelcome loss from the decline of a lucrative source of tax revenue.³³ Apparently the progressive effort to institute expertise and regulation in the case of the pure food law failed to furnish the concord so desperately sought by reformers and also proved that this method of government was just as susceptible to the various abuses that afflicted preceding governments. Perhaps one of the more outstanding features of progressive reform was the gradual move towards the secularization of American government, rather than the emphasis placed upon rationality. It was gradual because progressive method was still mixed with moralistic conformative ideals, yet not inundated with a religio-moral ideology as in past epochs. In any case, the greatest strength of the progressive role in reform does not rest in the founding of an efficient bureaucracy to regulate the nation's affairs, but in the identification of

such problems as food and drugs, public utilities, the regulation of railroads, conservation, and industrial competition.³⁴

Another factor that makes it difficult to associate efficiency and incisive bureaucracy with the pure food law is that the imposition of the most basic administrative reforms were not attempted until Taft became the President. In this regard, "Taft entered office determined to systematize the operations of the departments, a task neglected by his more extroverted predecessor."³⁵ Anderson writes in The Rule Of Law that the antiquated system of administration that existed in 1909 needed such fundamental reforms as central control of the various department's budgets - an effort that had disastrous results.³⁶ Although Taft obtained the reputation of being a good administrator, he failed to capture the political spirit of the nation. Taft's work to institute civil service reform, administrative reorganization, and the "introduction of modern business methods and budgetary controls appeared mundane and distant from Americans. On the contrary, Roosevelt knew how to sensationalize issues to gain the attention of the people and spark their imaginations.³⁷ Taft was never considered a popular president and perhaps he recognized the origins of the vapid characterizations of his presidency when he said "Reforms of this kind are the result of the hardest kind of work in the closet. They cannot be exploited in the headlines. They tire the audience. Those who affect them must generally be contented

with a consciousness of good service rendered, and must not look for the reward of popular approval."³⁸

A difficult problem faced by progressives who worked to institute administrative reforms is they did so against a public mentality that was unable to grasp and appreciate the impact of their suggested reforms. Jane Addams was aware of this situation when she wrote "the painful condition of endeavoring to minister to genuine social needs, through the political machinery, and at the same time to remodel that machinery so that it shall be adequate to its new task, is to encounter the inevitable discomfort of a transition into a new type of democratic relation. The mass of men seldom move together without an emotional incentive."³⁹ The triumph of bureaucracy would have to await another day.

The direct evidence which this investigation has focussed upon illustrates that Wiebe's attempt to explain the progressive movement and bureaucracy in terms of a broad historical abstract is imprecise when subjected to a specific critical analysis. Earlier in the study I contended that such an inadequacy is significant since the pure food law has been traditionally considered a major achievement of the progressive movement. I submit that the idea of associating professionalism and ordered bureaucracy with the progressive movement requires careful qualification.

This study's research has evinced a more basic and wholistic view of progressive reform. Although a need for efficiency and bureaucracy were recognized in the nation, legislation and administration were primarily influenced by the will of the electorate which places a politician in power, polemical civil servants and political pressure applied by industry. This study also shows there was no basic political continuity or conciseness in the political and administrative aspirations of the progressive pure food reformers. The food law case shows that reform was instituted and managed in an unorganized and almost haphazard fashion. As a result of the chaotic market conditions engendered by the failure of such regulation, protagonists of the laissez-faire concept of state could justify the depression of federal intervention in the economy and affairs of state. One could surmise that progressive incompetence impeded the development of effective government regulation in spite of the desperate need for such action, until the overwhelming crisis created by the Great Depression led to the rise of the New Deal state.

This enquiry has demonstrated that it is difficult to perceive the food law as an unqualified triumph of reform. I suggest that further study of the progressive movement and reform in the avenue pursued in this study could offer a significant divergent interpretation of the era. I offer the foreworded thesis as a heuristic work in the hope that further research will

go beyond the example furnished by the pure food analysis, and add to our understanding of the role of regulation, bureaucracy and the progressive movement.

Appendix

It would be of relevance to briefly consider the historiographical development of various interpretations of the progressive era in order to gain a better understanding of progressivism. In The Progressive Movement, Benjamin De Witt envisioned the progressive cause as a continuation of democratic reform that originated with Thomas Jefferson and passed to Andrew Jackson, the abolitionists, the populists and then the progressives.¹ De Witt maintained a polemical view of the progressive movement that regarded the institution of the progressive mandate as the victory of the less fortunate over the powerful. This interpretation of the progressive movement also permeated the views of Charles and Mary Beard who published The Rise of American Civilization in 1927.


In the 1930s historians found it increasingly difficult to avoid enucleating the progressive movement from the triumph of democratic reform in America given the social upheaval and human suffering engendered by the 30s economic depression which followed the progressive government of the early 20th century. John Chamberlain's Farewell To Reform is a noteworthy representative of the school of history which began to develop a critical attitude towards the progressive era during the early 30s. Chamberlain argued that the progressive's methods were atavistic, and concluded that they failed to understand the

nature of 20th century capitalism and "they wished only to return to an earlier, primitive phase of capitalism."²

Following the second World War, a new generation of historians began to question the progressive movement's effectiveness in relation to democratic reform. Men such as George Mowry stressed the discontinuity between the populist agrarian movement and the urban progressive movement which was led by small businessmen and professionals. In The California Progressives, "Mowry described the reformers as middle-class men who resented equally the growing power of large corporate enterprises and organized labor unions. They sought reform in part to right economic grievances, but in larger measure they were motivated by the desire to re-establish traditional nineteenth-century individualistic values in an increasingly collective age."³ Richard Hofstadter added to Mowry's theory in The Age of Reform: From Bryan to F.D.R., he argued that since the progressive era originated during a period of relative prosperity, the antecedents of the movement should be sought in psychological explanations rather than economic determinants. For Hofstadter, the vanguard of the progressive movement consisted of the traditional classes such as religious ministers, teachers, lawyers, and journalists who were replaced by a new order of rising businessmen. These progressives realized that the new corporate forms eroded traditional individualistic values and led to a decline in their social esteem. In order to regain their status they were forced to combat the new concentration of

business power by establishing a public concentration of power which ironically would also undermine the individualism they sought to preserve.⁴

Following the late 50s historical writers introduced alternate interpretations of the progressive era. Samuel P. Hays argued in The Response To Industrialism that the progressive movement was the result of professional businessmen's desire to place government administration in control of bureaucratic "experts" who could function or exercise "... discretion free from the pressures of electoral politics."⁵ Robert H. Wiebe elaborates this thesis in The Search For Order which was published in 1967. Wiebe asserts that the progressives were members of the new middle-class who attempted to apply the principles of rationalization and efficiency derived from business to public administration - "the progressive movement was the triumph of the new middle-class with a bureaucratic mentality."⁶ Gabriel Kolko surmises in The Triumph of Conservatism that big business sought limited government regulation in the U.S. economy to create profit producing conditions that could not be sustained by laissez-faire private enterprise.⁷ According to Kolko, the large meatpackers supported the Meat Inspection Act of 1906 to exclude smaller meatpacking operations from foreign meat export markets. This evidence leads Kolko to interpret the government's regulatory interventions of the progressive era as the triumph of conservative business rather than liberal reform.



The diversity of the historical interpretations of the progressive era which spans more than seventy years from Benjamin De Witt to the present day, does not represent an accumulation of wisdom but rather it indicates that each generation's historical enquiry into the past changes in accordance with the attitudes, opinions and social conditions which prevail in the environment that envelops the historian. When one distinguishes past historical viewpoints, the reader attains a deeper insight into the subject of study and the researcher gains a starting point upon which further investigation may be based.

Author's Note

Today the Walker Company which is based in Windsor, Ontario, is one of Canada's largest corporations. Although one of Canada's foremost business enterprises, there has been a relative lack of research concerning the company's past. In part, this neglect may be attributed to the lack of available information about the company; however, during the summer of 1986 efforts were made to make this material available to scholars at the newly established Hiram Walker Archives. As the individual who undertook the archival work for the company, I acquired the deep satisfaction of preparing their dusty historical records for the use of research. This project also provided invaluable sources for my thesis. The documentation is by no means intensive but will provide a more realistic standard for the study of the company and the community than historians had to work with before. A guide to the contents of the archives can be viewed at the Windsor Plant. The Hiram Walker-Gooderham & Worts Collection contains fascinating information about the company, the community and the distilling industry which is now readily available and hopefully will be extensively used.

Notes

Chapter I

1. Howard R. Walton, Hiram Walker (1816-1899) and Walkerville from 1858 (New York: The Newcomen Society in North America, 1958), p. 8.
2. Ronald G. Hoskins, "Hiram Walker: A Man of Two Countries", Detroit In Perspective, Vol. 2 Winter 1975, p. 97.
3. Francis X. Chauvin, Hiram Walker, His Life and His Work and The Development Of The Walker Institutions In Walkerville, Ontario (1927), Chapter VII, p. 4.
4. Ronald G. Hoskins, A Historical Survey of the Town of Walkerville, Ontario, 1858-1922 (M.A. Thesis, University of Windsor, 1964), p. 12-13.
5. Ronald G. Hoskins, "Hiram Walker and the Origins and Development of Walkerville, Ontario", Ontario History, Vol. LXIV, Sept. 1972, p. 122.
6. Hoskins, A Historical Survey, p. 14.
7. Silas Farmer, History Of Detroit And Wayne County And Early Michigan (Detroit: Silas Farmer and Company, 1890), p. 840.
8. Hoskins, "Hiram Walker: A Man of", p. 100.
9. Hoskins, "Hiram Walker and the Origins", p. 122.
10. Hoskins, A Historical Survey, p. 16.
11. Walker purchased lots 95 and 96 of the former Labadie farm near Windsor. This was the site which he constructed his Canadian Distillery upon.
12. Hoskins, "Hiram Walker and the Origins", p. 123.
13. Walton, Hiram Walker, p. 9.
14. Hoskins, "Hiram Walker and the Origins", p. 123.
15. The Essex Record, Aug. 1, 1872, p. 1.
16. Hoskins, A Historical Survey, p. 25.
17. Ibid., p. 4.
18. Ibid., p. 30-45.
19. Hoskins, "Hiram Walker and the Origins", p. 127.

20. Walton, Hiram Walker, p. 11.
21. "Walkerville: Born with Silver Spoon," The Windsor Star, Nov. 30, 1981, p. c3.
22. "Hiram Walker's Town Plan of 1889 Basis of Walkerville," Windsor and Essex County Historical Scrapbooks, Vol. 2.
23. Walton, Hiram Walker, p. 11.
24. Petition of E.C. Walker, "Praying for the Incorporation of Walkerville as a Town, Jan. 29, 1890, p. 1. Public Archives of Ontario, Toronto.
25. Hoskins, "Hiram Walker and the Origins", p. 129.
26. Ibid., p. 130.
27. Hoskins, "Hiram Walker and the Origins", p. 129.
28. Hoskins, A Historical Survey, p. 53.
29. One may consider this development in relation to Fogel's thesis in Railroads and American Economic Growth. He argues that development in the American midwest that was brought about by the railway would have occurred at the same rate with the introduction of an alternative transportation system. In the case of Walkerville such a theory may not be conceptually applied; much of the evidence examined in this study indicates the rails engendered rapid industrialization and modernization in Walkerville. In a similar vein John Weaver suggests in Hamilton An Illustrative History that the building and functioning of the railways brought in capital which was reinvested in producer goods and consolidated industry. This theory may be conceptually applied in relation to Walkerville's development.
30. Chauvin, Hiram Walker His Life, Chapter 26, p. 4-5.
31. Ibid., Chapter 28, p. 2.
32. Ibid., Chapter 9, p. 6.
33. Ibid., Chapter 21, p. 1.
34. Ibid.
35. Ibid., Chapter 27, p. 3-7.
36. "Hiram Walker Pioneer of Railways as Well as Distillery" The Windsor Star, April 3, 1954, p. 5.

Chapter II

1. Blake McKelvey, The Urbanization of America 1860-1915 (New Brunswick, New Jersey: Rutgers University Press, 1963), p. VII to IX.
2. Bernard Bailyn, David Brion Davis, David Herbert Donald, John L. Thomas, Robert H. Wiebe, Gordon S. Wood, The Great Republic (Toronto: D.C. Heath and Company, 1981), p. 591.
3. Ibid., p. 592.
4. Adam Smith, The Wealth of Nations, Vol. 2 (New York: Everyman's Library, E.P. Dutton, 1910), p. 155.
5. Lucy Black Creighton, Pretenders To The Throne (Toronto: D.C. Heath and Company, 1976), p. 8.
6. Ibid.
7. S. Mack Eastman, World Progress (New York: Allyn and Bacon, 1936), p. 534.
8. Creighton, Pretenders, p. 9.
9. Ibid.
10. Ibid.
11. Lawrence P. Feldman, Consumer Protection Problems and Prospects (New York: West Publishing Co., 1976), p. 4.
12. Ibid.
13. Richard Hofstadter, Social Darwinism In American Thought (Philadelphia: University of Pennsylvania Press, 1945), p. 68.
14. Feldman, Consumer Protection, p. 4.
15. Creighton, Pretenders, p. 15.
16. Ibid. It is of interest to consider the tension created by the growth of consumer society in relation to the Puritan ethic of the previous epoch. In the tradition of the Puritan ethic one saved and lived in a frugal manner. In America's burgeoning consumer cities of the late 19th century, the availability of installment buying and the abundance of consumer goods undoubtedly created values that conflicted with previous generations' virtues that stressed thrift.

17. Creighton, Pretenders, p. 16.
18. Feldman, Consumer Protection, p. 4-5.
19. This point will be elaborated upon later in the chapter.
20. Creighton, Pretenders, p. 16.
21. Ibid., p. 17.
22. This statement may be affirmed by consulting Mathew Josephson's The Robber Barons (New York: Harcourt, Brace and World, Inc., 1962).
23. For example, by the turn of the century consumer groups formed to protect the public from fraud and shoddy products.
24. Brian Murphy, The World Book of Whisky (Chicago: Rand McNally and Company, 1979), p. 123.
25. Ibid., p. 125.
26. Ibid., p. 123.
27. John Kobler argues in Ardent Spirits that when Lincoln signed the "Internal Revenue Act of 1862", which taxed the liquor industry, he thereby recognized the industries legitimacy and, in effect, made the government its partner. The importance of the revenue gained by the tax is illustrated in the "Report on the Enforcement of the Prohibition Laws of the United States" written by the Wickersham Commission dated Jan. 7, 1931. The authors point out that the liquor tax which was first sanctioned in 1862, often furnished up to 1/4 of the federal government's revenue in a given year following the institution of the act.
28. Murphy, World Whisky, p. 125.
29. Ibid.
30. This point shall be discussed further in the chapter.
31. Murphy, World Whisky, p. 126.
32. Mathew Josephson, The Robber Barons, p. 283.
33. Ibid., p. 284.
34. Walton, Hiram Walker, p. 15.
35. Ibid., p. 13.
36. Ibid.

37. Ibid.
38. Ibid.
39. Frank I. Schechter, The Historical Foundations of The Law Relating To Trade-Marks (New York: Columbia University Press, 1925), p. 147.
40. Ibid.
41. Ibid., p. 148.
42. Ibid., p. 150.
43. Ibid., p. 154-155.
44. Ibid., p. 150.
45. Hanover Star Milling Co. v Metcalf, United States Reports, Vol. 240 (New York: Banks Law Publishing Company, 1916), p. 403-426.
46. Walton, Hiram Walker, p. 13.
47. Chauvin, Hiram Walker, His Life, Chapter 33, p. 3.
48. Walton, Hiram Walker, p. 13.
49. Gerald Carson, The Social History of Bourbon, (New York: Dodd, Mead and Company, 1963), p. 152.
50. Ibid., p. 153.
51. Ibid., p. 150.
52. The earliest record of the company's efforts to alert buyers to fraud is found in a letter addressed from the company to two dealers in Chicago named Grommes and Ullrich asking them "to guard against imposition, we hereby beg you to carefully observe and clearly understand that the genuine Canadian Whisky, distilled by Hiram Walker & Sons, Walkerville, Ont. is bottled in the Canadian bonded warehouse, under excise supervision and that each and every bottle bears the stamp of the Revenue Commissioner, stating the age of the whiskey; this stamp which covers the cork and capsule of the bottle is put on before the goods leave the government warehouse." Important Notice to Grommes and Ullrich, Dec. 5, 1891. The Hiram Walker-Gooderham & Worts Collection. Hereafter referred to as HGC Box 8, Series 1, The Hiram Walker Archives, hereafter referred to as HWA.
53. Chauvin, Hiram Walker, His Life, Chapter 33, p. 3.

54. Ibid. A solicitation from a detective bureau called "The International and Tri-State Detective Bureau", April 26, 1892 is of relevance to this statement. HGC Scrapbook 1, 1890-1903, Series 5, HWA.
55. Carson, Social History, p. 154.
56. Ibid.
57. Ibid., p. 88.
58. Ibid.
59. Ibid.
60. Ibid., p. 100.
61. Ibid., p. 88.
62. Ibid., p. 100.
63. Ibid.
64. Ibid., p. 101.
65. Ibid.
66. Ibid., p. 151.
67. It is difficult to say with precision whether or not the sales of the product were diminished by the frauds without reliable statistics.
68. The company's decision to commit itself to a large scale campaign against fraud was made two years earlier. In a letter addressed "Dear Sirs" the company expressed its tedium with the methods used previously to seek legal redress for frauds. "We have therefore concluded that the more effectual plan will be to warn the public by newspaper advertisement and otherwise against such spurious whiskies by a description of the labels thereon; and in the persons selling them at retail continue to do so after being made aware of the facts we will also publish their names in their own localities. No honest dealer will knowingly sell a fraudulent article; and no dealer, however dishonest, will be willing that the public upon whose support he depends should know of his rascality. In this way we shall undoubtedly, to a great extent, cut off the distribution of such goods, which means that the bottlers thereof will find a very limited sale for them." "Dear Sirs", March 18, 1895. HGC Scrapbook 1, 1890-1903, Series 5, HWA. The outcome of this decision became very clear in several company newspaper advertisements which repudiate fraudulent operations including "Have You Read Our Posters" in The

Kansas City Tribune, Aug. 4, 1897, "A Valueless Guarantee" in The Denver Post, April 13, 1899 and "Unblushing Impudence" in The Minneapolis Times, Dec. 4, 1897.

69. Walton, Hiram Walker, p. 14. Generally, the posters were resorted to after an articulate letter failed to prevent fraudulent whisky sales. A registered letter sent to Mr. Sandy Patten on May 11, 1899, typifies such an action. The text of the letter vividly conveys the company's motivation for sending the letter and notifies the seller about the fake whisky he is vending. A summary at the bottom of the letter tersely states that "the spurious whisky which you are reported to be handling is labelled Montreal Club Canadian Rye Whiskey, Distilled and Bottled under Government supervision by Montreal Club Distilling Co.", being identical with package No. 15 in the circular already mentioned. There are no such distillers in this country as the MONTREAL CLUB DISTILLING CO., and consequently the goods are fraudulent.
- This whisky is put out by one of the worst fake liquor houses in the United States, Rheinstrom, Bettman, Johnson & Co., of Cincinnati. We have letters of theirs in our possession in which they admit that the whisky is neither made nor bottled in Canada. You are quite at liberty to send them this communication." Hiram Walker and Sons to Sandy Patten, May 11, 1899. HGC Box 8, Series 1, HWA.
70. These posters and others can be viewed in an album at HWA entitled "Bogus Liquors and How To Suppress Them."
 71. Carson, Social History, p. 155.
 72. Ibid., Also see "Confession", Chicago Times, Monday, July 26, 1898.
 73. Ibid.
 74. Chauvin, Hiram Walker, His Life, Chapter 32, p. 3.
 75. Ibid.
 76. "Fraudulent Whiskies We Direct Attention To Pretended Canadian Whiskies Herein Illustrated". HGC Box 8, Series 1, HWA.
 77. Chauvin, Hiram Walker, His Life, Chapter 32, p. 3.
 78. Ibid., Chapter 32, p. 4.
 79. Ibid.
 80. In addition to the letters and posters against fraud, the company published short pamphlets to expose the unblushing

deception of the public by certain parties. For example, "The Confidence Man in Commerce" published in Dec. of 1897 discloses information about a fraud committed by The Turner Looker Company of Cincinnati, Ohio. They were guilty of selling a spurious brand of whisky called "Windsor Club Whisky". "A Story of Fraud" charges Lee Hammond and Co. of selling illicit whisky in Boston named Montreal Club and outlines in detail the company's dealings with Hammond. Another pamphlet, "A Few Remarks", blasts Garrett and Sons for handling a spurious whisky labelled Canadian Rye Whisky, Distilled and Bottled by E.H. Johnson and Co., Toronto, Ontario, Canada since no such distiller existed. HGC Box 8, Series 1, HWA.

81. Chauvin, Hiram Walker, His Life, Chapter 32, p. 4.
82. Ibid., Chapter 32, p. 5.
83. At this juncture I would like to guard against giving the reader a narrow perception of fraud that relegates its occurrence to the Walker Company. An article in a liquor trade paper entitled "The Counterfeiting and Adulteration Question" reads "we realize that the evil has grown to enormous dimensions and is recognized by some so-called merchants who flaunt around in the garb of respectability, pass the collection plate on Sundays and grow rich on the gullibility of the public". "The Liquor Dealer", 1897 HGC Scrapbook 1, 1890-1903, Series 5, HWA. A great variety of other materials which illustrate the wide diffusion of fraud can be found in HGC Scrapbook 1, 1890-1903 and Scrapbook 2, 1894-1905, Series 5, HWA.
84. Chauvin, Hiram Walker, His Life, Chapter 32, p. 5. Also see HGC Box 8, Series 1, HWA.
85. For the purpose of this chapter the company's campaign against imitators effectively demonstrates the resultant intractability of the rapidly changing unregulated marketplace. Another interesting facet of the Walker Company's role in the U.S., regrettably beyond a serious analysis within the scope of this study, involves the company's efforts to stabilize pricing. In an epoch of legal and regulatory inertia, the accretion of price cutting exerted acute pressure upon the company's commitment to price stability. One can learn details about this problem from a historic sales meeting held by Mr. F.H. Walker, which is entitled and bound at the HWA as "The Proceedings of a Conference of Agents of Hiram Walker and Sons, held at Walkerville on the 20th and 21st days of March, 1896." One of the outcomes of this meeting is evident in a circular entitled "Change of Prices", Nov. 20, 1899. It begins by stating "From the very inception of our business in the United States we have earnestly endeavored to maintain uniform prices, both wholesale and retail." The company

wished to ensure a reasonable profit for its distributors and retailers and intimated that three years earlier they sold their product to a select number of houses in the hope that the price slashing that upset this goal would cease. The circular then says that "the practise of cutting on popular goods by certain houses in every part of the country is apparently ineradicable: and what one does his neighbors do in self defense." Therefore, the company established a price structure which evaded any control over the product "beyond its own possession" and for the most part discontinued giving discounts on sales of a large volume. "Change of Prices", Nov. 20, 1899, HGC Box 14, Series 1, HWA.

Chapter III

1. David M. Kennedy, ed. Progressivism: The Critical Issues (Boston: Little, Brown and Company, 1971), p. XIV.
2. Lewis L. Gould, ed. The Progressive Era (New York: Syracuse University Press, 1974), p. 3.
3. Ibid., p. 2.
4. Bernard Bailyn, David Brion Davis, Great Republic, p. 646.
5. Gould, ed. The Progressive Era, p. 9.
6. Benjamin Parke De Witt, The Progressive Movement (Seattle: University of Washington Press, 1968), p. 4-5.
7. Ibid., p. XVIII.
8. Bernard Bailyn, David Brion Davis, Great Republic, p. 652.
9. Ibid.
10. Ibid., Great Republic, p. 645.
11. Gould, ed. The Progressive Era, p. 8.
12. Harold S. Wilson, McClure's Magazine And The Muckrakers (New Jersey: Princeton University Press, 1970), p. V.
13. Bernard Bailyn, David Brion Davis, Great Republic, p. 655.
14. Harvey Swados, ed. Years of Conscience: The Muckrakers (New York: The World Publishing Company, 1962), p. 27.
15. David Mark Chalmers, ed. The Social And Political Ideas of The Muckrakers (New York: The Citadel Press, 1964), p. 15.
16. Ibid., p. 10.
17. Bernard Bailyn, David Brion Davis, Great Republic, p. 655.
18. Wilson, McClure's Magazine, p. V.
19. Bernard Bailyn, David Brion Davis, Great Republic, p. 655.
20. Chalmers, ed. The Muckrakers, p. 14.
21. Bernard Bailyn, David Brion Davis, Great Republic, p. 655.
22. Henry Beach Needham, "The Senate of Special Interests," Harvey Swados, ed. Years of Conscience The Muckrakers (New

York: The World Publishing Company, 1962), p. 280.

23. Ibid.
24. Ibid., p. 281.
25. Ibid., p. 282.
26. Ibid., p. 284.
27. Ibid.
28. Ibid., p. 285.
29. Upton Sinclair, The Jungle (New York: Harper and Brothers Publishers, 1940), p. VII.
30. Ibid.
31. Ibid., p. IX.
32. Ibid., p. X.
33. John Fischer, "Introduction" in The Jungle (New York: Harper and Brothers Publishers, 1946), p. XV.
34. Oscar E. Anderson, The Health of A Nation (Chicago: The University of Chicago Press, 1958), p. 4.
35. Ibid., p. 9.
36. Ibid., p. 15-16.
37. Ibid., p. 20.
38. Ibid.
39. Ibid., p. 21.
40. Ibid., p. 32-66.
41. Ibid., p. 65.
42. Ibid., p. 66.
43. Ibid.
44. Ibid.
45. Ibid.
46. Ibid.
47. Harvey W. Wiley, An Autobiography (Indianapolis: The Bobbs-

Merrill Company, 1930), p. 199.

48. Ibid., p. 200.
49. At the federal level of government during the 1890s numerous attempts were made to institute food regulation such as the Paddock bill of 1892, and a bill similar to the Paddock bill in 1897, which was supported by Wiley, both bills failed to pass.
50. Anderson, Health of Nation, p. 121.
51. Needham, "The Senate of Special Interests", Op.Cit., p. 280.
52. "Adulteration of Food Products", 56th Congress, Senate Report No. 516, p. 55
53. Anderson, Health of Nation, p. 130.
54. "Adulteration of Food Products, Op.Cit., p. 56.
55. Ibid., p. 54-56.
56. Ibid., p. 41.
57. Anderson, Health of Nation, p. 130.
58. Ibid.
59. Ibid., p. 131.
60. Wiley, An Autobiography, p. 216.
61. Ibid., p. 218.
62. Ibid., p. 216.
63. Harvey W. Wiley, The History of A Crime Against The Food Law (New York: Arno Press, 1976), p. 57.
64. Wiley, An Autobiography, p. 218.
65. Ibid.
66. Wiley, History of Crime, p. 77.
67. Reports Wiley published as a result of the "poison squad" experiments included: Part I - Boric Acid and Borax; Part II Salicylic Acid and Salicylates; Part III - Sulphurous Acid and Sulphites; Part IV - Benzoic Acid and Benzoates; Part V - Formaldehyde; Part VI - Sulphate of Copper; Part VII - Saltpeter
68. Wiley, An Autobiography, p. 203-204.

69. Anderson, Health of Nation, p. 152.
70. Wiley, An Autobiography, p. 206-207.
71. Ibid., p. 206.
72. Ibid., p. 205-206.
73. William Downard, Dictionary of The History of The American Brewing and Distilling Industries (Connecticut: Greenwood Press, 1980), p. 34.
74. Carson, Social History, p. 166.
75. Certainly the issue of purity and the elements which constitute whisky dominate correspondence between the rectifiers' and company's champion W.M. Hough and Dr. Wiley in Jan. of 1905. Wiley to Hough, Jan. 19, 1905, HGC Box 15, Series 1, HWA. Hough to Wiley, Jan. 31, 1905, HGC Box 15, Series 1, HWA.
76. Carson, Social History, p. 166.
77. Anderson, Health of Nation, p. 160.
78. Ibid., p. 168.
79. Ibid.
80. Wiley, An Autobiography, p. 202.
81. Harold Underwood Faulkner, The Quest For Social Justice 1898-1914 (New York: The Macmillan Company, 1931), p. 235. It is apparent that the Walker Company wished to acquire the results of Atwater's experiments as soon as they were made available. New York Office to Hiram Walker and Sons, July 8, 1899. HGC Scrapbook 2, 1894-1905, Series 5, HWA.
82. Anderson, Health of Nation, p. 169.
83. Ibid., p. 170.
84. In this regard Hough wrote Wiley late in Oct. of 1904, "I told you and the members of the Resolutions Committee of the Pure Food Congress which was recently held in this city, that the members of our Association were anxious to work in harmony with the Bureau of Chemistry of the Department of Agriculture, and with the National Association of State Dairy and Food Departments, to the end that proper definitions and standards shall be established and proper pure food laws, both State and Federal, be enacted, but you will pardon my saying to you that if you persist in rushing into print, as you appear to have been doing for the past

month, with erroneous statements in regard to the whisky business, if one may judge from the press of the country, you will not only force a parting of the ways, but will seriously impair your usefulness as an officer of the Government in a position which calls for the exercise of the utmost impartiality." Hough to Wiley, Oct. 19, 1904. HGC Box 15, Series 1, HWA.

85. Anderson, Health of Nation, p. 186.
86. Ibid.
87. Ibid.
88. George E. Mowry, The Era of Theodore Roosevelt (New York: Harper and Brothers Publishers, 1958), p. 207.
89. Ibid.
90. Ibid.
91. "The Food and Drug Act of 1906", United States Statutes At Large, 59th Congress, Dec. 1905-1907, Vol. XXXIV. (Washington: Government Printing Office), p. 768-772.
92. Wiley, An Autobiography, p. 231.

Chapter IV

1. Anderson, Health of Nation, p. 197.
2. Wiley, An Autobiography, p. 232.
3. Ibid., p. 232-235.
4. Ibid., p. 232.
5. Ibid., p. 232-233.
6. Ibid., p. 233.
7. Ibid., p. 233-234.
8. "The Food and Drugs Act of 1906", Op.Cit., p. 768-772.
9. Anderson, Health of Nation, p. 198.
10. Ibid.
11. Ibid.
12. Ibid., p. 199
13. Ibid.
14. Wiley, An Autobiography, p. 238. One may feel a certain amount of sympathy for Wiley in this instance, evidently the professor was placed on the board by Secretary Wilson without making a prior consultation with Wiley.
15. Ibid.
16. Anderson, Health of Nation, p. 201. Apparently the first serious disagreement between the two men was induced by the whisky question.
17. Wiley, History of Crime, p. 109.
18. Wiley, An Autobiography, p. 241.
19. Wiley, History of Crime, p. 162-163.
20. Although the President began to develop an attitude of reserve towards Wiley's scientific expertise, he maintained respect for his political clout. It was reported that Roosevelt once said to a disgruntled manufacturer in reference to the support Wiley received from the public and press that "Dr. Wiley has one of the grandest political machines in the country." Herbert D. Ward to Taft, March

24, 1909. The William Howard Taft Papers. Hereafter referred to as HTP Reel 351, Series 5. Wayne State University. Hereafter referred to as WS.

21. Anderson, Health of Nation, p. 210.
22. Wiley, An Autobiography, p. 242.
23. Anderson, Health of Nation, p. 212.
24. Wiley, History of Crime, p. 106.
25. Carson, Social History, p. 171.
26. Wiley, History of Crime, p. 108.
27. Anderson, Health of Nation, p. 202.
28. Wiley, History of Crime, p. 108.
29. Ibid., p. 109.
30. Ibid., p. 110-111.
31. Ibid., p. 111.
32. On April 10, 1907, Bonaparte rendered the following opinion, "The definition of 'whiskey' as a natural spirit, involves as its corollary that there can be such a thing as 'imitation whisky'. If the same process were followed of which we spoke in connection with artificial wine, namely, if ethyl alcohol either pure or mixed with distilled water, were given, by the addition of harmless coloring and flavoring substances, the appearance and flavor of whiskey, it is impossible to find any other name for the product in conformity with the pure food law, than 'imitation whiskey.'" HGC Box 15, Series 1, HWA.
33. Anderson, Health of Nation, p. 203.
34. Wiley, History of Crime, p. 119. Later Hough felt that Wiley had gained support within the Bureau because "the members of his Standards Committee have been the recipients of many favors from 'Chemist Wiley' including salaries, travelling expenses and other endowments which supplemented their meager pay ..." Thus "... the statements which most of them signed at his request in the whisky controversy, were diametrically opposite to views which had previously been expressed by them." Hough to Taft, Jan. 3, 1908. HTP Reel 73, Series 3, WS.
35. Wiley, History of Crime, p. 114.
36. Ibid., p. 116.

37. Ibid., p. 119.
38. Hough wrote the Walker Company that he suspected Bonaparte had not seen the report in its entirety since in his rebuttal of the report, issued on the same day he received it, Feb. 19, 1909, he did not comment upon the lengthy segment of the commission's report written by Capers. Hough to Hiram Walker and Sons, Feb. 25, 1909. HGC Box 15, Series 1, HWA.
39. Wiley, History of Crime, p. 134.
40. William, Robins, ed. A Plot Against The People (Walkerville: Hiram Walker and Sons, Limited), p. 36.
41. Ibid.
42. Ibid., p. 37. This statement has probably distorted historical reality to enhance the propagandistic thrust of the pamphlet. It seems unlikely the company would have been unaware of the debate about whisky labeling during 1904-05 and the danger of Wiley's obstinacy. The presence of the correspondence between Wiley and Hough (1904-05), bound and entitled "The Truth About Whisky", in the HWA suggests otherwise. In the same vein, a circular dated Dec. 20, 1906 states "although this law goes into effect in a few days, we have been unable until now to answer satisfactorily the enquiries of numerous customers as to its bearing upon our product, Canadian Club Whisky. Our own opinion always has been that the Act was not intended to interfere with any wholesome article which is truthfully labeled. Canadian Club Whisky is, and always has been, such an article." The circular then criticized Wiley and cites favorable opinions proposed by the New York lawyer Joseph H. Choate. At the bottom of the page the company assures buyers that "we unhesitatingly undertake to hold every distributor harmless as to any violation of the Act in the sale of Canadian Club." The Food and Drugs Act, Dec. 20, 1906. HGC Box 15, Series 1, HWA.
43. Ibid., p. 38.
44. A fascinating record of a seizure is on file at the HWA dated April 11, 1908, which is signed by Secretary of Agriculture, James Wilson. The letter states the charges against the company, describes the seized shipment and discloses the conclusions of the tests undertaken at the "Food Laboratory of the Department of Agriculture at the Port of Detroit, Telegraph Building". As a consequence of this analysis they ruled "this shipment is adulterated under Section 7, Paragraph 2, of the law; it is misbranded under Section 8, in that it is labeled whisky, which statement is false and misleading, as it is a mixture of neutral spirits

and whisky, the spirits being in excess". James Wilson to Hiram Walker and Sons, April 11, 1908. HGC Box 15, Series 1, HWA.

45. Robins, ed. A Plot, p. 38.
46. Ibid., p. 39.
47. Scrapbooks indicate that the seizures were widely covered by newspapers in the U.S. A good example of such reporting is the article "Pure Food Men Hunting Canadian Club Brand." The Brooklyn Eagle, July 3, 1908. Also see HGC Scrapbook 1, 1890-1903, Scrapbook 2, 1894-1905, Scrapbook 3, 1896-1923, Series 5, HWA.
48. Robins, ed. A Plot, p. 39.
49. Ibid., p. 40.
50. Ibid., p. 4.
51. Ibid., p. 4-5.
52. Food and Drugs Act of 1906, Op.Cit., p. 771.
53. Although this chapter has focused primarily upon the whisky question and pure food, a cursory reading of other components of the food law suggest similar difficulties persisted.
54. Anderson, Health of Nation, p. 222-223.
55. Robins, ed. A Plot, p. 21.

Chapter V

1. In addition to seeking redress to the whisky question, Hough expressed concern with Wiley's activities. An interesting letter from Hough to Taft in Jan. of 1909 states that "... Wiley is using his 'machine' to prevent your continuing Secretary Wilson as a member of the cabinet. Whatever sanity or reason has so far been exhibited in connection with the enforcement of the Pure Food and Drugs Act has been done almost entirely to the efforts of the Secretary to keep within the bounds of science and common sense the activities of Dr. Wiley, and to curb his insatiate desire to advertise himself; hence his opposition." Hough to Taft, Jan. 17, 1909. HTP Reel 118, Series 3, WS.
2. This executive order is printed in the "Taft Decision". It is of interest to note that one of the distiller's representatives directly mentioned in the document was one of Hiram Walker's lawyers Alfred Lucking. "Taft Decision". HGC Box 15, Series 1, HWA.
3. Anderson, Health of Nation, p. 224.
4. Ibid.
5. Ibid., p. 224-225.
6. Wiley, History of Crime, p. 143.
7. "Taft Decision", Op.Cit., p. 9.
8. Ibid., p. 10.
9. Anderson, Health of Nation, p. 225.
10. Wiley, History of Crime, p. 152.
11. Anderson, Health of Nation, p. 225.
12. F.I.D. 113 is published in Wiley's The History Of A Crime Against the Food Law on pages 147-149.
13. Wiley, History of Crime, p. 150.
14. Ibid.
15. "The Pure Food Law - A Magnificent Victory". HGC Box 15, Series 1, HWA.
16. Marver H. Bernstein, Regulating Business By Independent Commission (Princeton: Princeton University Press, 1955), p. 3. Also see Appendix.

17. Ibid., p. 30.
18. Robert H. Wiebe, The Search For Order, 1877-1920 (London: Macmillan and Company Limited, 1967), p. 145.
19. Ibid.
20. Ibid., p. 146.
21. Ibid., p. 153-154.
22. Ibid., p. 154.
23. Ibid., p. 161.
24. Ibid.
25. Ibid.
26. Ibid., p. 161-163.
27. Max Weber, "The Ideal Type of Bureaucracy", Bureaucracy In Historical Perspective, Michael T. Dalby, Michael S. Wetherman, eds. (Chicago: Scott Foresman and Company, 1971), p. 3.
28. One way of considering the adverse affects of the food law is in terms of costs to a given industry that otherwise would not have been incurred had the law not been passed. Besides the business Hiram Walker lbst, a considerable expense was generated by legal services; for example, one of the company's legal representatives, Joseph Choate sent Walkerville a bill in 1910 that totalled \$30,000 for legal council rendered after Taft became President. Joseph Choate to Hiram Walker and Sons, Dec. 12, 1910. HGC Box 15, Series 1, HWA.
29. Bernstein, Regulating Business, p. 17.
30. Ibid., p. 18.
31. Erik Erikson, Ghandi's Truth (New York: W.W. Norton Company Incorporated, 1969), p. 265.
32. Bernstein, Regulating Business, p. 18.
33. One may surmise that since the sales of the rectifier's products represented about 70% - 90% of the spirits consumed at the time, a drop in their sales would lead to a significant loss in government revenue. The importance of this revenue is reflected in a report given by the Wickersham Commission in 1931 which states the liquor tax often provided up to 25% of the government's revenue.

Undoubtedly this factor influenced Taft. Evidently, Hough was mindful of this factor as early as 1904 when he wrote Wiley that "the wholesaler liquor dealers, who protest against this action on your part, pay over \$130,000,000 of taxes annually to the Federal Government alone, and represent many hundred millions of dollars invested capital, which your efforts appear to be directed to destroy or seriously damage". Hough to Wiley, Oct. 19, 1904. HGC Box 15, Series 1, HWA.

34. Bernstein, Regulating Business, p. 37.
35. Donald F. Anderson, William Howard Taft (Ithaca: Cornell University Press, 1968) p. 85.
36. Ibid., p. 86.
37. Ibid., p. 92.
38. Ibid.
39. Jane Addams, Democracy And Social Ethics (New York: The Macmillan Company, 1915), p. 225-227.

Appendix

1. Kennedy, ed. Progressivism, p. VIII.
2. Ibid.
3. Ibid., p. IX.
4. Ibid., p. X.
5. Ibid., p. XI.
6. Wiebe, Search For Order, p. VIII.
7. Kennedy, ed. Progressivism, p. XII.

Bibliography

Primary Sources

The Hiram Walker and Sons Archives
The Hiram Walker-Gooderham & Worts Limited Collection

Wayne State University
The Theodore Roosevelt Papers
The William Howard Taft Papers

Published Primary Sources

"Adulteration of Food Products", 56th Congress, Senate Report, No. 516

"Bogus Liquors and How To Suppress Them". HWA.

"The Food and Drugs Act of 1906", United States Statutes At Large, 59th Congress, Dec. 1905-1907, Vo. XXXIV, Washington: Government Printing Office, 1907.

"Hanover Star Milling Co. vs Metcalf", United States Reports. Vol. 240, New York: Banks Law Publishing Company, 1916, p. 403-426.

"Pamphlets, Briefs, Etc. Including The Plot Against The People on the Whisky Question Before The President". Hiram Walker and Sons Limited. HWA.

Robins, William, ed. A Plot Against The People. Walkerville: Hiram Walker and Sons, Limited. HWA.

Taft Decision. HWA.

Wiley, Harvey W., The History Of A Crime Against The Food Law. New York: Arno Press, 1976.

Wiley, Harvey W., An Autobiography. Indianapolis: The Bobbs-Merrill Company, 1930.

Unpublished Manuscripts

Chauvin, Francis X., Hiram Walker, His Wife and His Work and The Development of The Walker Institutions in Walkerville, Ontario, 1927.

Hoskins, Ronald G., "A Historical Survey of the Town of Walkerville, Ontario." M.A. Thesis, University of Windsor, 1964.

Journals

Hoskins, Ronald G., "Hiram Walker and the Origins of Walkerville, Ontario". Ontario History, Vol. LXIV (Sept. 1972):3.

Hoskins, Ronald G., "Hiram Walker A Man of Two Countries", Detroit In Perspective: A Journal of Regional History, Vol. 2 (Winter 1975):2.

Books

Addams, Jane. Democracy and Social Ethics. New York: The Macmillan Company, 1915.

Anderson, Donald F. William Howard Taft. Ithaca: Cornell University Press, 1968.

Anderson, Oscar E. The Health Of A Nation. Chicago: The University of Chicago Press, 1958.

Bailyn, Bernard; Davis, Brion David; Donald, Herbert David; Thomas, John L.; Wiebe, Robert H.; Wood, Gordon S. The Great Republic. Toronto: D.C. Heath and Company, 1981.

Bernstein, Marver H. Regulating Business By Independent Commission. Princeton: Princeton University Press, 1955.

Carson, Gerald. The Social History of Bourbon. New York: Dodd, Mead and Company, 1963.

Chalmers, David, ed. The Social and Political Ideas of The Muckrakers. New York: The Citadel Press, 1964.

Cooper, John L. The Anti Gravity Force. Toronto: Kendall/Hunt Publishing Company, 1981.

Creighton, Lucy Black. Pretenders To The Throne. Toronto: D.C. Heath and Company, 1976.

De Witt, Benjamin Parke. The Progressive Movement. Seattle: University of Washington Press, 1969.

Downard, William. Dictionary of The History of The American Brewing and Distilling Industries. Connecticut: Greenwood Press, 1980.

Erikson, Erik. Gandhi's Truth. New York: W.W. Norton Company Incorporated, 1969.

Eastman, Mack S. World Progress. New York: Allyn and Bacon, 1936.

- Farmer, Silas. History Of Detroit and Wayne County And Early Michigan. Detroit: Silas Farmer and Company, 1890.
- Faulkner, Harold Underwood. The Quest For Social Justice 1898-1914. New York: The MacMillan Company, 1931.
- Feldman, Lawrence P. Consumer Protection. New York: West Publishing Co., 1976.
- Fogel, Robert. Railroads And American Economic Growth: Essays In Economic History. Baltimore: John Hopkins Press, 1964.
- Gould, Lewis L., Ed. The Progressive Era. New York: Syracuse University Press, 1974.
- Hofstadter, Richard. Social Darwinism In American Thought. Philadelphia: University of Pennsylvania Press, 1945.
- Josephson, Mathew. The Robber Barons. New York: Harcourt, Brace and World, Inc., 1962.
- Kennedy, David M., ed. Progressivism: The Critical Issues. Boston: Little, Brown and Company, 1971.
- Kobler, John. Ardent Spirits. New York: G.P. Putman's Sons, 1913.
- Lee, Henry. How Dry We Were. Englewood Cliffs, New Jersey: Prentice Hall, 1963.
- McKelvey, Blake. The Urbanization of America. New Jersey: Rutgers University Press, 1963.
- Merton, Robert K.; Gray, Ailsa P.; Hockey, Barbara; Selvin, Hana C.; eds. Reader In Bureaucracy. New York: Collier-Macmillan Limited, 1952.
- Mouzelis, Nicos P. Organization And Bureaucracy. Chicago: Aldine Publishing Company, 1967.
- Mowry, George E. The Era of Theodore Roosevelt. New York: Harper and Brothers Publishers, 1958.
- Murphy, Brian. The World Book of Whisky. Chicago: Rand McNally and Company, 1979.
- Richardson, James F., ed. The American City. Toronto: Xerox College Publishing, 1972.
- Schechter, Frank I. The Historical Foundations of The Law Relating To Trademarks. New York: Columbia University Press, 1925.

- Sinclair, Upton. The Jungle. New York: Harper and Brothers Publishers, 1946.
- Smith, Adam. The Wealth of Nations, Vol. 2. New York: Everyman's Library, E.P. Dutton, 1910.
- Swado, Harvey, ed. Years of Conscience: The Muckrakers. New York: The World Publishing Company, 1962.
- Swainson, Donald, ed. Oliver Mowat's Ontario. Toronto: Macmillan of Canada, 1972.
- Walton, Howard R. Hiram Walker (1816-1899) And Walkerville from 1858. New York: The Newcomen Society in North America, 1958.
- Weaver, John C. Hamilton An Illustrative History. Toronto: Lorimar and Company Publishings, 1982.
- Weber, Max. "The Ideal Type of Bureaucracy", Bureaucracy In Historical Perspective. Dalby, Michale T.; Werthman, Michael S., eds. Illinois: Scott Foresman and Company, 1971.
- Wiebe, Robert H. Businessman and Reform. Massachusetts: Harvard University Press, 1962.
- Wiebe, Robert H. The Search For Order 1877-1920. London: Macmillan and Company Limited, 1967.
- Wilson, Harold S. McClure's Magazine And The Muckrakers. New York: Princeton University Press, 1970.